

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.11415 of 2010

ORDER

This writ petition is filed seeking to declare the action of the 1st respondent in issuing the impugned notice dated 7.5.2010, as arbitrary and illegal.

The petitioner states that she is the absolute owner and possessor of house together with open place bearing Municipal No.23-6-212/7, admeasuring 348 square yards situated at Shayampet Village, Hanamkonda Mandal, Warangal District, having purchased the same from Koutham Ilaiah on 19.11.2007 under a registered sale deed. Since the said house is in dilapidated condition, she demolished the same with an intention to construct new building and building permission was granted on 15.1.2010. When the building was almost completed and the internal works were pending, the first respondent issued a notice under Section 452 of the A.P. Municipal Corporation Act, 1994 (for short 'the Act'), stating that the building was constructed contrary to the sanctioned plan, for which, she submitted her explanation on 28.4.2010. Without considering the said explanation, the 1st respondent issued another notice dated 7.5.2010. Questioning the same, the present writ petition is filed.

While admitting the writ petition on 12.5.2010, this Court in W.P.M.P.No.14493 of 2010, passed the following order:

“The second respondent is directed to visit the premises of the petitioner bearing H.No.23-6-212/7, situated at Hunter road, Hanamakonda, Warangal District, and note down the actual deviation with regard to short fall of the deviation said to have been made in violation of the

sanctioned plan and after giving 10% margins the extra constructions made over and above the 10% sanctioned plan may be demolished by passing an order and communicate the same to the petitioner.

Till then, the respondents are directed not to proceed with the demolition.”

Even after six years, no counter-affidavit is filed on behalf of the respondents.

A perusal of the impugned order shows that notice under Section 452 of the Act was issued on 20.4.2010 and the petitioner did not submit any explanation. Thereafter, another notice under Section 636 of the Municipal Corporation Act, 1955, was issued. But the petitioner states that an explanation was submitted on 28.4.2010 and copy thereof is filed along with the present writ petition. There is also an acknowledgment of receipt of the said explanation by the respondent.

In the circumstances, the respondents are directed to consider the explanation submitted by the petitioner on 28.4.2010 and pass appropriate orders keeping in view the interim order passed by this Court on 12.5.2010.

Accordingly, the Writ Petition is allowed setting aside the impugned order dated 7.5.2010. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A. RAMALINGESWARA RAO

1st December, 2016
rkk

