

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.20203 of 2008

ORDER:

This writ petition filed under Article 226 of the Constitution of India, assails the sale advertisement issued by the District Collector, Nalgonda-2nd respondent herein vide proceedings Rc.No.1422/2007-D dated 27.8.2008 to the extent of Item No.3 i.e. Plot No.G-5/11.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Respondents, apart from perusing the material available on record.

3. On an application made by the petitioner, requesting for allotment of a plot at Textile Park, Malkapur village of Nalgonda district, the 1st respondent vide proceedings Rc.No.1608/2002/D dated 8.3.2006 allotted Plot No.G-5/11 and thereafter executed a registered agreement of sale on 27.2.2007 in favour of the petitioner by receiving total consideration of Rs.1,00,500/-. The 2nd respondent issued the impugned advertisement for selling various plots including the plot confirmed in favour of petitioner earlier, showing the same as Item No.3 of the said advertisement. Contending that without issuing any notice for cancellation of allotment, the said plot cannot be put to sale, the present writ petition came to be filed.

4. A counter affidavit is filed by the respondents, stating that the respondents issued notices dated 18.2.2007 and 26.9.2007 to take up civil works in the said plot and on the request of the petitioner, the District Collector, Nalgonda extended time for taking up construction work upto 29.2.2008. It is further stated in the counter that even then the petitioner did not take up the civil works and the matter was taken to the notice of the District Collector,

Nalgonda/Chairman of the District Level Committee, who in-turn issued note orders dated 3.4.2008 for cancellation of plot and accordingly the Assistant Director, Handlooms and Textiles, Nalgonda issued orders of cancellation vide proceedings Rc.No.1422/2007-D dated 11.4.2008.

5. A reply affidavit is filed by the petitioner, denying the issuance of such notices. According to the learned counsel for the petitioner, the said action on the part of the respondent authorities is a patent violation of principles of natural justice, besides being violative of Articles 14 and 19(1)(g) of the Constitution of India.

6. On the directions of this Court, connected record has been placed before this Court by the learned Government Pleader. The said record does not contain the notice dated 18.2.2007 and it contains only notice bearing Rc.No.1608/07-B dated 26.9.2007 said to have been sent by certificate of posting. A reading of the said notice dated 26.9.2007 does not indicate that the same is a show cause notice issued for cancellation. Therefore, in the absence of any material on record to show that the show cause notice was issued to the petitioner prior to cancellation of allotment by virtue of proceedings dated 11.4.2008, it has to be necessarily concluded that the action of the respondents in cancelling the allotment is a patent infraction of principles of natural justice. It is a well settled proposition of law that any action on the part of the authorities, which has civil consequences must necessarily be preceded by a notice and opportunity of being heard to the persons likely to be affected by such action. In the instant case, as observed supra, the said principle is followed in breach and without issuing any show cause notice for cancellation, the respondents resorted to cancellation of allotment by way of proceedings dated 11.4.2008.

7. For the aforesaid reasons, the writ petition is allowed, setting aside the sale advertisement issued by the District Collector, Nalgonda-2nd respondent herein vide proceedings Rc.No.1422/2007-D dated 27.8.2008 to the extent of Item No.3 i.e. Plot No.G-5/11 only and the proceedings Rc.No.1422/2007-D dated 11.4.2008 issued by the 1st respondent herein. However, this order will not preclude the respondents from proceeding in accordance with law, after giving notice and opportunity of being heard to the petitioner herein. As a sequel, the Miscellaneous Petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 22.11.2016
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A.V.SESHA SAI, J



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