

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.8323 of 2016

ORDER:

Heard Sri T.V.S. Prabhakar Rao, learned counsel for the petitioner, and Sri Nimmagadda Venkateswarlu, learned Standing Counsel for the second respondent Municipality.

The prayer of the petitioner in this case is as under:

“For the reasons stated in the accompanying affidavit, the petitioner herein pray that this Hon'ble may be pleased to issue writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the Confirmation Notice in Ref.U.C.No.11/2016-G1, dt.08-03-2016 issued by the 2nd respondent as illegal, arbitrary, and violative of principles of natural justice consequently directing the respondents to consider the objections of the petitioner to the notice

dt.03-03-2016 and drop all further proceedings pursuant to the said notice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

It appears that the notice under Section 217(1) of the A.P. Municipalities Act, 1965 (for short, 'the Act of 1965'), was issued by the Commissioner, Mandapeta Municipality on 03.03.2016. Therein, seven days time was given to the addressee of the notice to respond thereto. However, the impugned notice under Section 217(3) of the Act of 1965 was issued on 08.03.2016 requiring the petitioner to remove the constructions in question within a timeframe.

Sri T.V.S. Prabhakar Rao, learned counsel for the petitioner, would state that notice dated 03.03.2016 was received on 05.03.2016 and the petitioner submitted her explanation on 08.03.2016 but despite the same, the impugned notice records that no explanation had been submitted pursuant to the show-cause notice dated 03.03.2016.

As the afore-stated facts demonstrate that the impugned notice dated 08.03.2016 was issued without even awaiting the expiry of the

time stipulated in the notice dated 03.03.2016, the same is set aside on this short ground. The Mandapeta Municipality shall consider the petitioner's explanation dated 08.03.2016 and pass orders afresh in accordance with law expeditiously.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

15th March, 2016
PGS/IBL