

**THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**WRIT PETITION No.34958 of 2016**

**ORDER:**

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the action of the respondent in issuing impugned notice, dated 24.09.2016 and trying to demolish the structures of the building bearing D.No.76-16-27/5 in R.S.No.28/3, situated at Bhavanipuram, Vijayawada, as arbitrary and illegal and consequently, direct the respondent to follow the due process of law.

2. The petitioner is the absolute owner and possessor of aforesaid building having purchased the same under a registered sale deed, dated 28.11.2012, bearing document No.7322/12. On the application made by the petitioner, the respondent accorded permission under Sections 428 and 431 of the Municipal Corporation Act (for short, 'the Act') for construction of ground floor and 1<sup>st</sup> floor with RCC slab roof residential building. The petitioner made constructions in accordance with law. While the matter stood thus, after due inspection by the respondent authorities, penalty of Rs.50,000/- was collected from the petitioner for unauthorized construction of 2<sup>nd</sup> floor and Rs.5,000/- towards debris charges. Thereafter, the impugned notice, dated 24.09.2016, under Section 452 of the Act was issued calling for explanation from the petitioner as to why demolition shall not be effected for the deviations in making constructions.

3. Learned counsel for the petitioner submits that the petitioner made a representation to the respondent intimating about demise of his father and requested to grant some time to

submit the explanation to the impugned notice, but without considering the same, the respondent officials are trying to demolish the structures in the subject premises treating no explanation is offered by the petitioner.

4. Considering the facts and circumstances of the case, especially the demise of father of the petitioner at the time of issuance of impugned notice, the request of the petitioner is reasonable and deserves consideration. Hence, time can be granted to the petitioner for submission of explanation to the impugned notice.

5. Accordingly, the Writ Petition is disposed of. Time granted by the respondent in the notice, dated 24.09.2016, shall stand extended by ten (10) days from today. The petitioner shall submit explanation within the time mentioned above and thereafter, the respondent authorities shall consider the same and pass necessary orders after giving opportunity to the petitioner. After passing orders, the respondent is at liberty to take further action, if warranted. Learned Standing Counsel for the respondent Corporation shall intimate the authorities concerned forthwith about the order passed by this Court. Till passing of final orders on the explanation of the petitioner, there shall be interim stay of the impugned notice. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

**CHALLA KODANDA RAM, J**

**OCTOBER 18, 2016**

Note:

Issue C.C. today.

(B/o)  
YVL

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**Date: 18.10.2016**

**YVL**

