

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.41938 OF 2016

DATED : 02.12.2016

Between :

Thammareddy Koteswara Rao S/o.Lakshmaiah,
Aged about 78 yrs, D.No.15-195,
Pornaki, Penamalur Mandal, Krishna District.

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Petitioner

And

The State of Andhra Pradesh,
Municipal Administration & Urban Development Department,
Secretariat, Hyderabad, rep., by its Secretary & others.

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Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER :

Petitioner challenges the order dated 28.11.2016. In the said order, it is alleged that the petitioner has violated the building permission granted to him and undertaking construction in deviation. According to this order, notice dated 21.11.2016 was issued against the petitioner. But since petitioner did not file his explanation the impugned order is passed.

2. Heard learned counsel for the petitioner and learned standing counsel for the 3rd respondent.

3. Learned counsel for the petitioner would submit that the petitioner was not served with notice dated 21.11.2016 and also the impugned order. The said notice was pasted on the wall. If only a reasonable opportunity was given to the petitioner, he would have explained his stand. According to the learned counsel, petitioner has not violated the building permission granted. It is erroneous to allege that the petitioner has violated the building permission granted.

4. According to learned Standing counsel, petitioner refused to receive the notice dated 21.11.2016 and therefore, they were compelled to paste the notice on the wall of the building. The order impugned was also refused by the petitioner and therefore, it was again pasted on the wall.

5. A bare perusal of the order would show that show cause notice was issued to the petitioner on 21.11.2016 and it seems to have been taken out to be served on the petitioner on the same day. As the petitioner refused to receive the same, it was pasted on

the wall. Even assuming that the notice was served, seven days time would expire on 28.11.2016. The respondent could not have rushed to pass orders and ought to have waited for reasonable time after 28.11.2016, when the time granted expired on 28.11.2016. More so, when what is alleged against the petitioner is grave and would impact the building constructed by him. It is not in dispute that the petitioner was granted building permission and therefore, what is required to be seen is only with reference to the deviations.

6. In order to afford due opportunity to the petitioner to explain his stand on alleged deviations, I deem it proper to grant ten days time to the petitioner to file his explanation on the allegations leveled against him in the impugned order. If such explanation is filed by the petitioner within ten days from today, the competent authority shall consider the same and pass appropriate orders within a further period of one week, as warranted by law. Till the final orders are passed as directed above, the respondents are directed not to take any coercive steps against the petitioner.

7. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO,J

2nd December, 2016

Note : Issue c.c. in two days

B/o.
Rds