

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 39375 of 2016

Date : 15.11.2016

Between :

Smt Ajmeera Vijayalaxmi W/o Ranjith Naih
R/o H NO. 24-7-227/2/B, Mayuri Gardens
Pragathi nagar, Phase II
Naik Street
Warangal

Petitioner

And

The State of Telangana,
Rep by its Principal Secretary to the Municipal Admn Dept
Secretariat buildings, Hyderabad and others

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner, learned Government Pleader for Municipal Administration for first respondent and Smt Pingali Laxmi, learned standing counsel for respondents 2 to 4. With the consent of the parties, the writ petition is taken up for disposal.

2. Petitioner challenges the notice dated 5.11.2016 issued under Section 636 of Hyderabad Municipal Corporation Act, 1955 (for short the Act).

3. It is the foremost contention of the learned counsel for petitioner that this order is not preceded by notice and opportunity. The defense of the petitioner is that he had applied for building permission on 31.5.2016 and there was no rejection of the same within 30 days time as required under the law and after expiry of 30 days, he commenced construction.

4. Learned standing counsel, on instructions, submits that petitioner has not observed the set-backs which are mandatory for undertaking the construction and petitioner has covered full extent of the plot, which is illegal.

5. Perusal of various notices issued to petitioner does not disclose that the allegation of not observing set-backs was made.

6. This being a serious allegation and since petitioner contend that notice under Section 636 of the Act is not preceded by any notice, I deem it appropriate to remand the matter to the Commissioner, Greater Warangal Municipal Corporation directing him to cause notice on the petitioner listing out the illegalities committed by him in undertaking the subject construction. Notice to that extent shall be issued within two weeks from the date of receipt of copy of this order and thereafter two more weeks time is granted to the petitioner to submit his reply. On receipt of the reply, the Commissioner, on due consideration of the explanation, shall pass orders in accordance with law within a further period of two weeks. Till further orders are passed as directed above,

no coercive action shall be taken against the petitioner. Petitioner is also directed to file an affidavit before the Deputy Commissioner, Greater Warangal Municipal Corporation, Kazipet Circle –II, Warangal –fourth respondent, within two days giving an undertaking that he shall not undertake any further construction until proceedings are concluded by the Commissioner as directed above. If petitioner does not file undertaking or deviate from undertaking given and undertakes construction, it is open to the Commissioner to take appropriate action as warranted under law without further notice.

7. Subject to above, writ petition is disposed of. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE: 15.11.2016
TVK



P NAVEEN RAO,J

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