

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.8255 of 2016

ORDER:

Heard Sri P. Rajesh Babu, learned counsel for the petitioner,
and

Sri A. Pandu Ranga Rao, learned Standing Counsel for the second
respondent Municipal Corporation.

In the light of the order proposed to be passed by this Court, it is
not necessary to put the unofficial respondent on notice.

The grievance of the petitioner is with regard to the notice dated
29.02.2016 issued by the Rajamahendravaram Municipal Corporation
under Section 636 of the Greater Hyderabad Municipal Corporation
Act, 1955 (for short, 'the Act of 1955'). The said order was passed in
consequence to the notice dated 07.02.2016 issued by the
Corporation under Sections 452, 461 and 636 of the Act of 1955.

Though the impugned order dated 29.02.2016 records that the
said notice was served on the petitioner on 15.02.2016, this is
demonstrably wrong as the notice dated 07.02.2016 was signed by the
Commissioner of the Corporation only on 15.02.2016, as is evident
therefrom. Further,

Sri P. Rajesh Babu, learned counsel for the petitioner, would assert
that the petitioner received the said notice only on 25.02.2016 and
submitted his response thereto under his reply dated 29.02.2016. This
reply seems to have been sent to the Commissioner of the Corporation
on 01.03.2016.

Sri P. Rajesh Babu, learned counsel, would also draw the
attention of this Court to the order passed by this Court in
W.P.No.24275 of 2000. This writ petition was filed by the erstwhile
occupant of the very same premises aggrieved by the notice issued by
the municipal authorities under Sections 452, 461 and 636 of the Act of
1955. By order dated 08.04.2004, this Court directed the municipal
authorities to follow the due procedure. This order evidences the fact

that the subject cellar portion of the building was being put to such use even before the year 2000. If that be so, there is no reason as to why the municipal authorities should rush through the process at this stage without even considering the explanation filed by the petitioner.

As the Municipal Corporation proceeded in the matter on the assumption that the petitioner had failed to submit his explanation and as this assumption is shown to be factually incorrect, the impugned notice dated 29.02.2016 issued by the Rajamahendravaram Municipal Corporation under Section 636 of the Act of 1955 is set aside and the matter is remitted to the Corporation for consideration afresh duly taking into account the petitioner's reply dated 29.02.2016. The petitioner shall also be given a personal hearing before the Corporation takes a decision in the matter.

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

14th March, 2016
PGS