

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.30695 of 2017

ORDER:

Heard learned counsel for the petitioners and Sri Chatla Madhu, learned Standing counsel for the respondent Municipal Corporation.

A caution notice vide proceedings No.234/235/TPS/C-18/NZ/GHM/2016, dated 29.08.2017, issued by the Deputy Commissioner, Circle No.18, Greater Hyderabad Municipal Corporation, is under challenge in the present writ petition.

Earlier, the respondent Municipal Corporation has issued a notice under Section 459 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, "the Act"), asking to show cause as to why the subject constructions should not be pulled down/removed/repared.

According to the petitioners, they submitted an explanation on 21.08.2016. Now, by way of the impugned caution notice, dated 29.08.2017, the respondent Municipal Corporation requested the petitioners to vacate/remove the subject building.

According to the learned counsel for the petitioners, the impugned action is highly illegal, arbitrary and violative of principles of natural justice. It is further submitted that the petitioners submitted an explanation earlier on 21.08.2016, but the respondent Corporation, without considering the

same, straight away issued the impugned caution notice and the same is in violation of the principles of natural justice.

On the other hand, it is submitted by the learned Standing counsel that as the subject building is in dilapidated condition, the respondent Corporation issued the impugned caution notice, as such, the same cannot be faulted.

It is not in dispute that earlier the respondent Corporation issued a notice under Section 459 of the Act on 06.08.2016, calling for explanation from the petitioners and in response thereto, on 21.08.2016, the petitioners said to have been submitted an explanation. The impugned caution notice does not show any semblance of consideration of the said explanation offered by the petitioners. On this sole ground this Court deems it appropriate to set aside the impugned caution notice and to remand the matter to the respondent Corporation authorities for fresh consideration.

For the aforesaid reasons, the writ petition is allowed, setting aside the impugned caution notice, dated 29.08.2017, and the matter is remanded to the respondent Corporation authorities for fresh consideration of the issue by considering the explanation, dated 21.08.2016, said to have been submitted by the petitioners and after hearing the petitioners. Till the said exercise attains finality, no coercive action shall be taken. However, it is made clear that if any unforeseen eventuality takes place, the petitioners alone shall be held

responsible, but not the Corporation authorities. No order as to costs.

Miscellaneous petitions, if any, shall stand closed.

A.V. SESA SAI, J

Date: 12.09.2017
ES

