

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

WRIT PETITION No.26461 of 2017

ORDER:

Heard Sri T.S.Venkata Ramana, learned counsel for the petitioner, learned Government Pleader for Municipal Administration & Urban Development (Andhra) for the first respondent, Sri Nimmagadda Venkateswarlu, learned counsel for the second respondent and Sri D.Ramesh, learned Standing Counsel for the third respondent.

In the present Writ Petition challenge is to the proceedings U.C.No.25/2017, dated 30.05.2017 issued by the second respondent under the provisions of Section 115 (3) of the Andhra Pradesh Capital Reorganisation Development Authority Act, 2014 (for brevity, 'the Act'). The second respondent issued a show cause notice bearing U.C.25/2017 dated 16.05.2017, asking the petitioner to show cause as to why appropriate action should not be taken in respect of the constructions, indicated therein. According to the petitioner, in response to the said show cause notice, the petitioner herein submitted explanation dated 20.05.2017 in the office of Nandigama Nagar Panchayat and the said panchayat acknowledged the same on 25.05.2017. Eventually the second respondent, by way of the notice under challenge, issued under Section 115 (3) of the Act, confirmed the

show cause notice, asking the petitioner herein to remove the structures. According to the learned counsel for the petitioner the said action on the part of the second respondent-authority is highly illegal and is opposed to the very spirit and object of the provisions of the Act and also a patent violation of the principles of natural justice. It is further submitted by the learned counsel for the petitioner that the office of the second respondent, having acknowledged the explanation submitted by the petitioner herein, grossly erred in noting that no such explanation was submitted by the petitioner herein. A perusal of the material available before this Court discloses that the petitioner herein submitted his explanation dated 20.05.2017 in response to the show cause notice dated 16.05.2017 and the said explanation bears the acknowledgment made on behalf of the office of the second respondent. Therefore, non-consideration of the said explanation offered by the petitioner herein, in response to the show cause notice, is evidently patent violation of the principles of natural justice. In the considered opinion of this Court the said act is sufficient to set aside the impugned notice issued by the second respondent.

For the aforesaid reasons, the Writ Petition is allowed setting aside the impugned notice bearing U.C.25/17 dated 30.05.2017 and the matter is remitted to the second respondent

for fresh consideration of the issue in accordance with law after considering the explanation, dated 20.05.2017 offered by the petitioner in response to the show cause notice, and after giving notice and opportunity of being heard to the petitioner herein. Till the said exercise attains finality, no coercive action, pursuant to the impugned notice, shall be taken.

Consequently, the miscellaneous petitions, if any, shall stand closed.

08th August, 2017
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A.V.SESHA SAI, J

