

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

WRIT PETITION Nos.11882 & 27674 of 2017

COMMON ORDER:

Since these two writ petitions are interrelated, this Court deems it appropriate to dispose of the same by way of this common order.

2. In W.P.No.11882 of 2017, challenge is to the alleged inaction on the part of the Vijayawada Municipal Corporation, Vijayawada in considering the representation, dated 30.03.2017, said to have been submitted by the petitioner. In W.P.No.27674 of 2017, the petitioner challenges the notice in TPBO-X UC No.1/2017, dated 21.06.2017, issued by the Vijayawada Municipal Corporation under Section 115 (3) of the APCRDA Act, 2014 read with Section 636 of the Hyderabad Municipal Corporation Act, 1955.

3. The petitioners in these writ petitions are sisters and they are the owners of adjacent properties. The petitioner in W.P.No.11882 of 2017 submitted a representation to the Vijayawada Municipal Corporation, Vijayawada alleging that the petitioner in W.P.No.27674 of 2017 is making illegal constructions in violation of the regulations. This Court, while ordering Rule Nisi on 04.04.2017, passed an interim order in WPMP.No.14789 of 2017 in WP.No.11882 of 2017, directing respondent Nos.1 and 2 therein to take cognizance of the complaint made by the petitioner and take appropriate steps in accordance with law. Obviously, in furtherance of the said order, the impugned action in W.P.No.27674 of 2017 has been taken.

4. According to Sri M.S. Prasad, learned Senior Counsel appearing for the petitioner in W.P.No.27674 of 2017, though this Court specifically directed respondent Nos.1 and 2 to take

appropriate action in accordance with law, Vijayawada Municipal Corporation, Vijayawada issued the impugned notice dated 21.06.2017 directing the petitioner to remove the structures without being preceded by any show cause notice.

5. On the other hand, it is submitted by Smt.Jhansi, learned Standing Counsel for Vijayawada Municipal Corporation, Vijayawada, that the Vijayawada Municipal Corporation, Vijayawada issued a notice dated 05.06.2017 asking the petitioner in W.P.No.27674 of 2017 to show cause and to appear for personal hearing on 12.06.2017 at 11.30 am.

6. It is specifically stated in the affidavit filed in support of W.P.No.27674 of 2017 that the show cause notice dated 05.06.2017 is not served on the petitioner either personally or through the registered post. There is no evidence to show that the petitioner in W.P.No.27674 of 2017 received the said notice. Learned Standing Counsel has produced the notice dated 05.06.2017 before this Court and served a copy of the same to the counsel for the petitioner in W.P.No.27674 of 2017 under acknowledgement.

7. Having heard the learned counsel for the petitioners and learned Standing Counsel for Vijayawada Municipal Corporation, Vijayawada, this Court is of the considered opinion that the ends of justice would be met, if W.P.No.27674 of 2017 is allowed, setting aside the notice dated 21.06.2017, and permitting the petitioner therein to file her explanation to the show cause notice dated 05.06.2017 issued by the second respondent, within a period of two weeks from today for consideration by the Corporation in accordance with law, and if such explanation is made within the time stipulated, the same be considered and appropriate orders be passed in

accordance with law, after hearing all the stakeholders. It is made clear that both the petitioners shall appear before the second respondent for personal hearing on 11.09.2017 at 11.30 am.

8. Accordingly, W.P.No.27674 of 2017 is allowed and W.P.No.11882 of 2017 is disposed of. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.V. SESA SAI, J

Date: 28.08.2017
TJMR

