

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

WRIT PETITION No.30614 of 2017

ORDER:

Heard learned counsel for the petitioner and Sri N.Praveen Kumar, learned Standing Counsel for the second respondent-Sircilla Municipality.

Petitioner herein claims to have purchased open space admeasuring 275 sq.yards in Sy.No.477B, 531/C, 532, 533/A & 534/B, situated adjacent to House No.6-4-123/4 Vidyanagar, Sircilla, Sircilla mandal, Rajanna Sircilla District from one Sircilla Balakrishna for valuable consideration under a registered sale deed vide Document No.1324/17 dated 10.03.2017. Earlier, on an application made by the petitioner herein, the second respondent granted building permission in favour of the petitioner herein vide permit No.3016/W9/2017/0384 dated 09.06.2017. By way of a notice under challenge, dated 19.06.2017, while revoking the building permission granted earlier, the Commissioner, Sircilla Municipality-second respondent asked the petitioner to get the site demarcated by the Mandal Surveyor in the presence of the office staff and re-apply for building permission. In the present Writ Petition, the said notice, dated 19.06.2017, is under challenge.

According to the learned counsel for the petitioner, the impugned notice is highly illegal, arbitrary and in total violation of the principles of natural justice. In elaboration, it is submitted by the learned counsel that, without being preceded by any show cause notice and without giving any opportunity of being heard to the petitioner, the second respondent issued impugned notice dated 19.06.2017 revoking the building permission and the same is patent violation of the principles of natural justice.

On the other hand, it is submitted by the learned Standing Counsel that, only after verifying the connected records, the second respondent-Municipal Commissioner issued the impugned notice and there is no illegality in the said notice.

It is well settled and established law that any action on the part of the authorities, which has civil consequences, is required to be preceded by notice and opportunity of hearing to the persons affected by such action. In the instant case even the impugned notice dated 19.06.2017 does not indicate as to the issuance of any show cause notice prior to resorting to the impugned action. In the considered opinion of this Court, the said action on the part of the second respondent, in revoking the building permission granted earlier is a patent violation of principles of natural justice and on this ground alone the impugned notice is liable to be set aside and the matter requires

re-consideration by the second respondent after giving notice to the petitioner.

For the aforesaid reasons, the Writ Petition is allowed, setting aside the impugned notice in File No.G1/30/2017 dated 19.06.2017. It is open for the second respondent to issue show cause notice and take further action, strictly in accordance with law, after giving opportunity of personal hearing to the petitioner herein.

As a sequel thereto, miscellaneous petitions, if any, pending, shall stand closed.

A.V.SESHA SAI, J

11th September, 2017
Tsy

