

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

WRIT PETITION No.27281 of 2017

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, to declare the action of the second respondent, in trying to remove the pillars raised on the third floor of the petitioner's house, as illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Government Pleader for Municipal Administration and learned Standing Counsel for second respondent-Municipal Corporation.

The petitioner herein claims to be the absolute owner and possessor of the house bearing D.No.23A-3-90,32, Ramachandraraoapeta, Eluru, West Godavari District, having purchased the same by way of a registered sale deed bearing Document No.6652 dated 05.09.2011. It is averred in the writ affidavit that, on an application made by the petitioner herein, the second respondent herein sanctioned building permission vide order dated 22.06.2017 and, accordingly, the petitioner herein made construction of a three-storied building and raised pillars for projection on the third floor. The second respondent-Eluru Municipal Corporation issued a show cause notice bearing No.U.C.No.02/2017/TPS dated 15.07.2017 under Section 452 of

the Hyderabad Municipal Corporation Act, 1955 (for brevity, 'the Act'), alleging certain deviations. According to the petitioner he submitted an explanation on 24.07.2017 to the second respondent in response to the show cause notice. According to the learned counsel for the petitioner, without considering the said explanation offered by the petitioner herein, the second respondent-Eluru Municipal Corporation authorities are attempting to demolish the structures. It is contended by the learned counsel for the petitioner that the impugned action on the part of the second respondent authorities is highly illegal, arbitrary and violative of Articles 14, 16, 19 (g), 21 & 300-A of the Constitution of India.

Admittedly, in the present case, the second respondent issued a show cause notice under the provisions of Section 452 of the Act, calling upon the petitioner herein to submit explanation. As per the material available on record, the second respondent acknowledged the explanation dated 24.07.2017 offered by the petitioner.

Having heard the learned counsel for the petitioner and the learned Government Pleader, this Court is of the considered opinion that the ends of justice would be served if the Writ Petition is disposed of directing the second respondent to

consider the explanation offered by the petitioner herein in accordance with law.

For the aforesaid reasons, the Writ Petition is disposed of, directing the second respondent to consider the explanation dated 24.07.2017, submitted by the petitioner herein in response to the show cause notice dated 15.07.2017, and pass appropriate orders after giving opportunity of being heard to the petitioner herein. Till the said exercise attains finality no coercive action, pursuant to the show cause notice dated 15.07.2017, shall be taken by the second respondent-municipal authorities.

As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

16th August, 2017
Tsy