

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.23794 of 2017

ORDER:

This Writ Petition is filed by the petitioner under Article 226 of the Constitution of India seeking to declare the action of the respondents in issuing order in R.C.No.CRDA-12021(51)/198/2017, dated 13.07.2017, thereby threatening to demolish building bearing D.No.10-6/4 (Assessment No.6035) in R.S.No.83/1 of Prasadampadu Village, Vijayawada Rural Mandal, Krishna District, without following due process of law, as illegal and arbitrary and violative of the provisions of the Andhra Pradesh Capital Regional Development Authority Act, 2014 and Rules framed there under and also offends Articles 14, 21 and 300-A of the Constitution of India and consequently set aside the order passed by respondents 2 & 3 in R.C.No.CRDA-12021(51)/198/2017, dated 13.07.2017.

2. Heard learned counsel for both the parties and perused the material available on record. With the consent of the learned counsel for both the parties, the writ petition is taken up for disposal at the stage of admission.

3. The case of the petitioner is that the petitioner is the absolute owner, possessor and enjoyer of the land to an extent of 333.5 square yards in R.S.No.83/1 of Prasadampadu Village, Vijayawada Rural Mandal, Krishna District. The petitioner's vendor approached the 4th respondent Gram Panchayat and obtained building plan approval, dated 22.09.2014, for construction of the building in ground + two floors and

subsequently the petitioner purchased the said site with approved plan and started construction of the building and the petitioner, after completing the construction of the building, sold the same to third parties i.e., for about six persons.

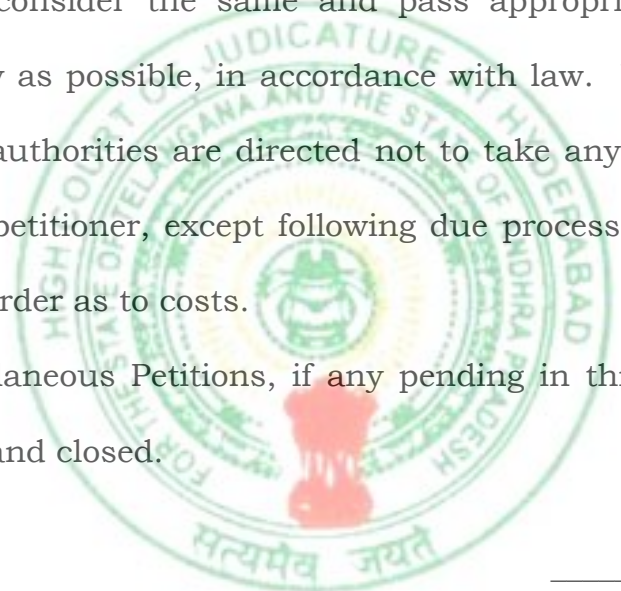
4. The main grievance of the petitioner is that the 3rd respondent has issued order in R.C.No.CRDA-12021(51)/198/2017, dated 13.07.2017, which is impugned in the present writ petition, alleging that the petitioner constructed building with deviations of 1st and 2nd floors along with ground floor of the approved plan and also constructed third floor without taking any permission from the authority and finally the petitioner constructed the building without leaving road effected portions and it is further alleged in the said order that a show cause notice, dated 05.07.2017, has been issued to the petitioner demanding him to give explanation within a period of seven days under the provisions of Section 151(3) of the Andhra Pradesh Capital Regional Development Authority Act, 2014 (for short, 'the CRDA Act'), but the petitioner was not served with any such notice and the petitioner has received final impugned order, dated 13.07.2017, and only after receiving the impugned order, the petitioner came to know that earlier he was issued show cause notice and other proceedings.

5. Learned counsel for the petitioner submitted that the petitioner is entitled to show cause notice and personal hearing and explanation as per statute and that without following such procedure contemplated under Section 115(1) of the CRDA Act, the

impugned order, dated 13.07.2017, was issued to the petitioner and prayed to set aside the impugned order, dated 13.07.2017.

6. Considering the facts and circumstances of the case and the submissions of the learned counsel for the petitioner, the Writ Petition is disposed of directing the petitioner to submit an explanation to the impugned order R.C.No.CRDA-12021(51)/198/2017, dated 13.07.2017, to the respondent authorities on or before 30.07.2017 and on receipt of such explanation of the petitioner, the respondent authorities are directed to consider the same and pass appropriate orders, as expeditiously as possible, in accordance with law. Until then, the respondent authorities are directed not to take any coercive steps against the petitioner, except following due process of law. There shall be no order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.



RAJA ELANGO,J

Date: 19th July, 2017

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