

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

WRIT PETITION NO.27157 OF 2017

ORDER:

Heard the learned counsel for the petitioners and Sri S.D.Gowd, learned Standing Counsel for 1st Respondent-Tirupati Municipal Corporation.

The petitioners herein claim to be the joint owners and possessors of premises bearing D.No.18-3-60, Ward No.18, Block No.3, Tirumala Bypass Road, Shantinagar, Tirupati. It is further stated that the Respondent granted building construction permission, vide building permit No.1012/0342/B/TIR/SN/2016, dated 30-12-2016 permitting the petitioners to construct four floors (1 stilt+ 3 upper floors). It is further averred that the petitioners herein started constructing the building as per the said permit and the building is still under construction. The Respondent-Corporation issued a notice under Section 452(1)(2) of the Hyderabad Municipal Corporation Act,1955 (for short "the Act") vide Notice bearing No.6/TPS-4, dated 12-04-2017. According to the learned counsel for the petitioners, the petitioners submitted a reply to the Respondent-Corporation stating that there is no deviation. Thereafter, the Respondent-Corporation served on the petitioners a notice bearing UC No.6/2017/T.P.S-4, dated 29-06-2017 directing the petitioners to remove the constructions and further called upon to show cause as to

why prosecution should not be launched. According to the learned counsel for the petitioners, the notice dated 04-06-2017 said to have been issued under Section 452(1)(2) of the Act, referred to in the impugned notice dated 29-06-2017, was never served on the petitioners herein. In fact, the same is specifically pleaded in the affidavit filed in support of the writ petition. It is further submitted by the learned counsel for the petitioners that though the petitioners herein submitted their representation on 08-05-2017 in response to the show cause notice dated 12-04-2017, the Respondent-Corporation completely ignored the same and issued the present impugned notice. According to the learned counsel for the petitioners, the said action on the part of the Respondent-Corporation is highly illegal and violative of principles of natural justice.

On the other hand, it is submitted by the learned Standing Counsel for the Respondent-Corporation that there is no illegality in the impugned action.

It is the specific case of the petitioners herein that the petitioners herein submitted an explanation to the show cause notice and the impugned notice by the Respondent-Corporation was never served on them.

Having heard the learned counsel for the petitioners, learned Standing Counsel for the Respondent-Corporation, this court deems it appropriate to dispose of the present

writ petition by permitting the petitioners herein to submit the explanation to the impugned notice dated 29-06-2017 by treating the same as show cause notice within a period of one(1) week from the date of receipt of a copy of this order. If any explanation is submitted by the petitioners herein within the time stipulated, the same be considered and appropriate orders be passed after giving an opportunity to the petitioners herein. Till the said exercise attains the finality, no coercive steps pursuant to the impugned notice shall be taken.

Accordingly, the writ petition is disposed of at the stage of admission. No order as costs.

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

07.09.2017
TSNR

A.V.SESHA SAI, J