

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

WRIT PETITION No.32159 of 2017

ORDER:

Heard learned counsel for the petitioner and Sri P.Krishna Reddy, learned Standing Counsel for the Municipal Corporation.

Notice bearing No.01/UC/TPS/C5/EZ/2017, dated 08.09.2017 and notice bearing No.01/UC/TPS/C3/EZ/GHMC/2017, dated 18.09.2017, issued under Sections 452 (1), 461 (1) and 452 (2) of the Greater Hyderabad Municipal Corporation Act, 1955 (hereinafter referred to as 'the Act') are under challenge in the present writ petition.

According to the petitioner, his father namely Sri P.Subhash owned plot bearing No.71 admeasuring 621 square yards in Survey Nos. 1, 2, 3 and 11 situated at Saheb Nagar. It is stated that his father made an application to the then Hyderabad Urban Development Authority (HUDA) for grant of permission for construction of ground + three floors and accordingly, the HUDA granted building permission *vide* letter bearing No.751/P4/H/05, dated 06.07.2005 and thereafter, the then LB Nagar Municipality released the plan *vide* building permission No.G2/BP/373/2005, dated 07.08.2005, after payment of requisite building permission fee and accordingly, the constructions were made. It is also stated that partition among the family members had taken place *vide* registered family partition bearing documents No.4451 of 2005, dated 15.09.2005, and in

the said partition, plot bearing No.71 in Survey Nos.1, 2, 3 and 11 fell to the share of the petitioner.

Respondent No.3-Deputy Commissioner, Circle-III-A, East Zone, LB Nagar issued a notice on 08.09.2017 under Section 452 (1) and 461 (1) of the Act to the petitioner, pointing out certain deviations in the constructions. Thereafter, respondent No.3 issued another notice on 18.09.2017 under Section 452 (2) of the Act mentioning therein that the petitioner did not submit any reply to the show cause notice.

It is the case of the petitioner, as advocated by the learned counsel for the petitioner, that the show cause notice, dated 08.09.2017, was served on the Watchman of the petitioner on 15.09.2017 and without even waiting for the period stipulated therein for submission of explanation, respondent No.3 issued a notice on 18.09.2017. It is the further submission of the learned counsel for the petitioner that the said action on the part of the municipal authorities is illegal, arbitrary and a patent violation of the principles of natural justice.

Learned Standing Counsel for the Municipal Corporation, on the other hand, submitted that the petitioner can submit an explanation to the show cause notice, dated 08.09.2017, with supporting documents and on such submission, appropriate action in accordance with law would be taken by the authorities of the Municipal Corporation.

Having heard the learned counsel for the petitioner and the learned Standing Counsel for the Municipal Corporation, this Court deems it appropriate to allow the writ petition in part by setting aside the notice bearing No.01/UC/TPS/C3/EZ/GHMC/2017, dated 18.09.2017, and keeping it open to the petitioner to file an explanation within a period of one week from the date of receipt of this order to the show cause notice, dated 08.09.2017, and if any such explanation is filed by the petitioner, the authority concerned shall consider the same and take action as per law, after hearing the petitioner. It is made clear that in the event of failure on the part of the petitioner to file explanation as indicated supra, this order will not enure to the petitioner and it is open to the respondent-Corporation to proceed in accordance with law.

The writ petition is accordingly allowed in part.

Consequently, Miscellaneous Petitions, if any pending in this writ petition shall stand disposed of.

A.V.SESHA SAI, J

Dt:19.09.2017.
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