

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.23426 OF 2017

ORDER:

The petitioner filed the present Writ Petition seeking to declare the high handed action of the Respondents in trying to demolish Petitioner's Residential house constructed in premises bearing H. No. 30-276/ 3/ 40, on plot in Plot No.36 in Survey Nos.328/ 1, 328/ 2, and 465, land admeasuring 106.8. Sq. yards or 89.38 Sq. Mtrs., situated at Santhoshima Nagar Colony, Old Safilguda, erstwhile Malakajiri Municipality, now under GHMC, Malakajiri Circle and Mandal, Medchal District without following due process of law, as illegal and arbitrary.

Heard and perused the material available on record.

The case of the petitioner is that she purchased the above-mentioned property from her vendor vide sale deed, dated 18.11.2016. The vendor of the petitioner applied for building permission for constructing G + 1 floor, prior to selling the property. Subsequently, the building permission was sanctioned on 10.03.2017. The petitioner constructed G + 1 floor and started constructing second floor with an intention to apply for regularization. Suddenly, the authorities of the respondents 2 to 4 came to the subject place and threatened the petitioner to demolish the structures since the same is constructing in deviation of the sanctioned plan. Hence, the petitioner filed this writ petition.

Heard and perused the material available on record.

The main grievance of the petitioner is that without issuing any prior notice, the authorities of the respondents 2 to 4 are threatening to demolish the structures.

Learned Standing Counsel for the respondents 2 to 4, on instructions, submitted that the respondents have followed the due procedure and they served notice under Section 452 of the Hyderabad Municipal Corporation Act on the petitioner, and thereafter, they issued notice under Section 636 of the HMC Act.

Considering the submissions of the learned counsel for both sides, and also the grievance of the petitioner, without expressing any opinion on merits, this Court is inclined to pass the following order:

“The notice issued to the petitioner under Section under Section 636 of the Hyderabad Municipal Corporation Act, to the petitioner is hereby set aside, and the respondents are directed to issue notice to the petitioner invoking provisions under Section 452 of the Hyderabad Municipal Act. On receipt of such notice, the petitioner is directed to submit her explanation, and on receipt of the explanation from the petitioner, the respondents are directed to consider the same and take appropriate action in accordance with law, on the basis of the explanation.”

With the above directions, the Writ Petition is disposed of. No order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

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RAJA ELANGO, J

July 17, 2017

KTL