

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.1515 of 2017

ORDER:

This Writ Petition is filed seeking for a Mandamus declaring the action of the 3rd respondent not to demolish the petitioners' property house bearing Door Nos.2-6-296 to 298 situated at Mukarampura, Karimnagar Town and District.

It is the contention of the learned counsel for the petitioner that the father of the petitioner viz., B. Mohan Reddy along with one Mukund Lal Mishra had purchased an extent of 1494 sq.yards vide document No.141 of 1958 dated 19.03.1958 from one Smt. K. Rambai and subsequently they have partitioned the property vide Partition Document No.1475 of 1962, dated 06.07.1962. Thereafter, during the lifetime of petitioner's mother certain shops were constructed with the permission from the 3rd respondent in 1982 and the shops have been leased out to the various persons. In 1986, when the 3rd respondent made an attempt to demolish the said property on the ground of the master plan, petitioner approached this Court and filed W.P.No.15435 of 1986 and this court vide order dated 28.10.1986 directed the 3rd respondent not to demolish or interfere in any manner with the petitioner's property without following due process. Now, all of sudden petitioner was issued with notice under section 635 of Hyderabad Municipal Corporation Act (in short "the Act") calling the petitioner to submit the ownership documents within three days from the date of receipt of the said notice. It is asserted that petitioner had given a reply to the said notice, which was received by the 3rd respondent. Though the respondent had not passed any order, the petitioner apprehends that the respondent authorities may

demolish the property without acquiring the same and without following due process.

Learned standing counsel Sri Rajamalla Reddy, appearing for the 3rd respondent, on instructions submit that what all has been done by the 3rd respondent is only calling for explanation and the title documents to be submitted to the Corporation to enable it to take further action, if necessary. Though the learned counsel for the petitioner asserted that the documents as required by the 3rd respondent vide notice dated 14.12.2016 have been submitted, learned standing counsel on instructions submit that no such documents have been submitted to the 3rd respondent.

Having considered the respective submissions, it transpires that petitioner had filed the writ petition only on mere apprehension. Admittedly, as of date only a notice dated 14.12.2016 under section 635 of the Act has been issued asking the petitioner to submit a copy of the sanctioned plan and its proceedings, a copy of the registered documents and copy of link documents and further a caution is mentioned in the notice that if the petitioner fails to submit those documents necessary action will be initiated in accordance with the rules and bye laws framed under the HMC Act, 1955. The notice was responded by the petitioner vide letter dated 07.01.2017, in which the petitioner merely stated as follows:

“With reference to the subject cited, it is to submit that, I am herewith enclosing stay orders passed by the Hon’ble High Court of Andhra Pradesh Hyderabad in W.P.No.15435 of 1986 with regard to my shops bearing Nos.(2-6-227 & 2-6-228 old) (2-6-296, 2-6-297 & 2-6-298 NEW) for your kind perusal. This is for your favour of kind information.”

In the said letter dated 07.01.2017, there is no mention about any of the documents having been enclosed along with explanation submitted by the petitioner. Learned standing counsel on instructions also substantiates the said *factum* that no documents have been enclosed to the letter submitted by the petitioner.

Section 635 of the Act reads as under:

“(1) The Commissioner may, in order to facilitate the service, issue, presentation, or giving of any notice, bill, schedule, summons or other such document upon or to any person, by written notice require the owner or occupier of any premises, or of any portion thereof to state in writing, within such period as the Commissioner may specify in the notice, the nature of his interest therein and the name and address of any other person having an interest therein, whether as freeholder, mortgage, lessee or otherwise, so far as such name and address is known to him.”

A perusal of the above Section it does not disclose any action, as such, has been proposed against the petitioner or the petitioner's property. However, granting of three days time is not reasonable time, especially, when the respondent authorities required old documents. In those circumstances, the petitioner shall be at liberty to submit the said documents as required by the 3rd respondent vide notice dated 14.12.2016, within two weeks from the date of receipt of this order. It is also made clear that the respondent authorities if need to interfere with or desire to acquire the property of the petitioner, the same shall be done only in accordance with law and till then peaceful possession and enjoyment of the petitioner shall not be interfered with.

With the above observation, this Writ petition is disposed of.
There shall be no order as to costs.

Consequently, the Miscellaneous Petitions, if any pending,
shall stand closed.

CHALLA KODANDA RAM, J

Date:07.02.2017
Ssv

