

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.9974 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking to issue a writ of mandamus to declare notice, dated 07.03.2017, under Section 452(1) & (2) of the Hyderabad Municipal Corporation Act, 1955, issued by the 3rd respondent, as illegal and arbitrary and consequently, set aside the same.

Heard and perused the material available on record.

It is the submission of the learned counsel for the petitioner that the notice has been issued at the instance of the 4th respondent, who had, in fact, suffered an order in O.S. No.589 of 2016 on the file of the Junior Civil Judge, Kakinada. It is the specific assertion of the learned counsel that there is no encroachment made by the petitioner and so far as the minor deviations are concerned, they are condonable by the Municipal authorities.

Learned Standing Counsel for the respondents 2 and 3 opposes the writ petition for passing any positive order. However, learned Standing Counsel would submit that the petitioner may submit her explanation and the said explanation shall be considered after ascertaining the facts both on site as well as on record.

What has been challenged before this Court is only a show-cause notice issued by the 3rd respondent to the petitioner. The said notice has been issued to the petitioner on a complaint filed by the 4th respondent. In all fairness, the 4th respondent has also been given an opportunity to make submissions before the 2nd respondent. After receipt of the explanations from the petitioner as well as the 4th respondent and also after inspection of the site, if the 2nd respondent finds any obstruction

being caused to the 4th respondent as alleged and if the said obstruction is not in conformity with the sanctioned plan granted in favour of the petitioner, the respondent Municipal Authorities shall be at liberty to take action. Till completion of the entire process, no coercive steps will be taken against the petitioner.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, pending if any, shall stand closed.

CHALLA KODANDA RAM, J

March 21, 2017
KTL

