

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.20338 of 2011

ORDER:

This writ petition is filed by the petitioner under Article 226 of the Constitution of India seeking to declare the action of the respondent officials in threatening to demolish any of the portion of the property bearing Municipal No.1-17, situated at Serilingampally, Chandanagar, Hyderabad, as illegal and arbitrary and consequently to declare the notice, dated 08.07.2011, vide letter No.94/ACP/C-12/TPS/GHMC/2011, issued by the 2nd respondent as null and void and not binding on the petitioner.

The case of the petitioner is that the 2nd respondent has issued show cause notice under Sections 452(1) & 461(1) of the Hyderabad Municipal Corporation Act, 1955, dated 18.05.2011, stating that the petitioner has encroached the ramp on road margin, for which the petitioner submitted his reply, dated 25.05.2011, and the same was received in the office of the respondent Corporation on 28.05.2011. Since no orders have been passed thereupon by the respondents, the petitioner has filed W.P.No.16588 of 2011, wherein this Court, vide order, dated 17.06.2011, disposed of the said writ petition directing the respondents to consider the petitioner's reply, dated 25.05.2011, and pass appropriate orders, in accordance with law and till such time, the respondents were directed not to interfere with the possession of the petitioner, in any manner, whatsoever in respect of the property in question.

The main grievance of the petitioner is that the 2nd respondent has issued a letter bearing Lr.No.94/ACP/C-12/TPS/GHMC/2011, dated 08.07.2011, to the petitioner stating that the owner has constructed cellar floor unauthorizedly and converted stilt floor for shops, first floor for commercial use and deviated all round set backs and also unauthorizedly constructed stair case and ramp by encroaching his road margin and that the reply submitted by the petitioner, dated 25.05.2011, is not satisfactory and directed the petitioner to remove the deviation portion and encroached portion on road margin within seven days. Aggrieved by the same, the petitioner preferred the present writ petition.

Heard and perused the material available on record.

Learned counsel for the petitioner submitted that the 2nd respondent has already issued a show cause notice, dated 18.05.2011, stating that the petitioner has encroached the ramp on road margin, for which the petitioner submitted his reply, dated 25.05.2011, and further the respondents have issued a letter, dated 08.07.2011, the reply submitted by the petitioner, dated 25.05.2011, is not satisfactory and directed the petitioner to remove the deviation portion and encroached portion on road margin within seven days and in pursuance of the said letter, dated 08.07.2011, without affording any opportunity to the petitioner to give any reply or objection to the said letter, the respondents are further proceeding with the demolition of the subject property. Learned counsel for the petitioner requested the Court to direct the respondents to follow the procedure in

accordance with law, if there are any deviations in the subject property.

Considering the said facts and circumstances and the submissions of the learned counsel for the petitioner, the respondents are directed to follow the procedure, in accordance with law, if there are any deviations in the subject property.

Accordingly, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, in the writ petition shall stand closed.

RAJA ELANGO,J

Date: 18th January, 2017

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