

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.17538 of 2017

ORDER:

This writ petition is filed by the petitioner to issue a writ, order or direction, more particularly a writ of mandamus declaring the orders passed by the 2nd respondent vide proceedings No.66409/TPS/HO/GHMC/2017/606, dated 23.05.2017, in revoking the building permission granted to the petitioner for construction of residential apartment consisting of cellar, stilt + 5 upper floors in Plot No.2, admeasuring 4646.79 sq. yards in Survey No.44/1, situated at Miyapur Village, Serlingampally Mandal, GHMC Serlingampally Circle, Ranga Reddy District, without considering the explanation submitted by the petitioner, without giving any opportunity of personal hearing, even though the petitioner has not violated the sanctioned plan, as illegal, arbitrary and violation of principles of natural justice.

2. The case of the petitioner is that he submitted an application for building permission to the Municipal Authorities by enclosing necessary documents and after satisfying with the title and plans submitted by him, he was granted building permission vide File No.66409/TPS/HO/GHMC/2017/606, dated 23.05.2017. After obtaining permission, the petitioner started the construction work. It is the grievance of the petitioner that the municipal authorities are interfering with his construction work stating that they have received a complaint from the 6th respondent, who is claiming that construction

is being made in part of the open space left by the 7th respondent in the layout obtained in the year 1981. Immediately, the petitioner addressed a letter to the 2nd respondent on 19.10.2016 and explained about the issue. According to the petitioner, the 6th respondent was demanding money from him and when he refused to pay the same, the 6th respondent made a false complaint to the GHMC authorities. Basing on the same, the petitioner was issued show-cause notice, dated 15.04.2017, for cancellation of the building permission. The petitioner submitted his explanation to the said show-cause notice on 28.04.2017, but without considering the same, the impugned order has been passed.

3. Learned counsel for the petitioner submits that the explanation submitted by the petitioner was not considered in proper perspective except making an observation in the impugned order to the effect that the reply given by the petitioner is not satisfactory and that the entire action was initiated only on the complaint filed by the 6th respondent.

4. On the other hand, learned Standing Counsel for GHMC submits that since there was an enquiry, a survey was conducted by the Special Deputy Director and Land Acquisition Officer and basing on the same, it is found that an extent of 1,076.67 sq. meters was claimed by both the petitioner and respondent Nos.6 and 7. Since the said extent was overlapped in both the sites of the petitioner and the 7th respondent and since there is a dispute about the site, keeping in view the public interest, the proposed construction activity cannot be allowed to be continued.

5. A perusal of the impugned proceedings, dated 23.05.2017, goes to show that though the petitioner submitted elaborate representation, except saying that the reply is not satisfactory, the same was not dealt with in detail. Thus, there is no compliance with the principles of natural justice. The impugned order is, therefore, liable to be set aside, without expressing any opinion on the merits.

6. Accordingly, the impugned order, dated 23.05.2017, is set aside and the matter is remanded back to the 2nd respondent to pass orders afresh after issuing notice to the petitioner as well as respondent Nos.6 and 7. It is open to the petitioner to raise all the objections before the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order. The 2nd respondent is directed to consider the same and pass appropriate orders within a period of four weeks from the date of receipt of objections. If the petitioner fails to report any objections within a period of two weeks as directed above, it is open to the 2nd respondent to pass orders basing on the material available. Till then, the petitioner shall not alienate or make constructions in the subject land.

7. The writ petition is allowed to the extent indicated above.

8. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A. RAJASHEKER REDDY, J

10th July 2017

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