

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.30867 of 2017

ORDER:

Heard learned counsel for the petitioner and Md. Saleem, learned Standing counsel for the 3rd respondent Municipality.

In the present writ petition, challenge is to the alleged action on the part of the 3rd respondent in proceeding with the demolition of the building bearing D.No.4-343/12 situated in Sy.No.245 A1/2, Ramajala Raod, Adoni, Kurnool District.

According to the petitioner, he and his family members purchased the subject building by way of a registered sale deed bearing document No.6386/2014, dated 25.10.2014, and the said building is in Plot No.1 in approved layout L.P.No.26/1986. According to the petitioner, the said property was purchased from one Smt. R. Jaibunnisa Begum, who applied for building permission and the 3rd respondent granted the said permission on 24.09.2011.

Earlier, the 3rd respondent Municipality issued a notice in the year 2016 under Sections 189 and 192 of the A.P. Municipalities Act, 1965 alleging encroachment. Subsequently, on 15.12.2016, the 3rd respondent issued a final notice under the provisions of the A.P. Municipalities Act, asking the petitioner to remove the alleged encroachments. Thereafter, the 3rd respondent also issued an

endorsement vide Roc.No.661/2017/G1, dated 28.02.2017, to the correspondent of the College, which is being run in the subject building granting seven (07) days time for removal.

It is submitted by the learned counsel for the petitioner that on 15.06.2017 the petitioner got issued a legal notice to the respondents stating that the municipal authorities conducted survey and quite contra to the survey they have included the petitioner's some other property. In the said legal notice, the petitioner also requested for re-survey of the land and to take further action.

According to the learned counsel for the petitioner, without taking any action on the said legal notice, dated 15.06.2017, the respondent Municipality is actively contemplating to take further action pursuant to the final notice, dated 15.12.2016, and if the same is permitted, the petitioner will be put to irreparable loss and hardship.

On the other hand, it is submitted by the learned Standing counsel for the 3rd respondent Municipality that the final notice, dated 15.12.2016, may be directed to be treated as show cause notice and it is open for the petitioner to file an explanation for the same and if any such explanation is filed, the same will be verified, considered and further action will be taken strictly in accordance with law, as it is the case of the petitioner that the respondent Municipality did not serve any notice to him.

Having heard the learned counsel for the petitioner and the learned Standing counsel, this Court deems it appropriate to dispose of the writ petition, leaving it open to the petitioner to submit his explanation to the final notice, dated 15.12.2016, by treating the same as a show cause notice, within a period of two weeks from the date of receipt of this order and if any such explanation is filed within the time stipulated above, the same be considered and appropriate further action will be taken strictly in accordance with law. Till such exercise attains finality, no coercive action pursuant to the final notice, dated 15.12.2016, shall be taken with regard to the subject property. No order as to costs.

Miscellaneous petitions, if any, shall also stand disposed of.

Date: 13.09.2017
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A.V. SESA SAI, J