

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P. NO. 1846 OF 2017

ORDER:

Heard learned counsel for the petitioner as well as Sri Sampath Prabhakar Reddy, learned standing counsel appearing for the respondents and perused the material papers.

A notice dated 30.12.2016 under Sections 452 (1) and 461 (1) of Hyderabad Municipal Corporation Act, 1955 was issued to the petitioner alleging unauthorized construction of building and thereby giving 7 days' time for filing his objections, failing which appropriate action for demolition of unauthorized construction will be taken. The said demolition notice is challenged in this writ petition. It is the contention of the learned counsel for the petitioner that there are about 35 persons who are residing in the premises, and the demolition notice was received by the petitioner on 4.1.2017 and an explanation dated 11.1.2017 was submitted which was not considered by the respondents.

Learned standing counsel appearing for the respondents submits that the demolition notice was served on the petitioner on 31.12.2016 itself and as no response was received from the petitioner, an order under Section 452 (2) of the HMC Act, 1955 was passed on 10.1.2017 and in that view of the matter, consideration of the explanation alleged to have been submitted by the petitioner on 11.1.2017 did not arise.

In the facts and circumstances of the present case, as a matter of fact, the explanation which was submitted by the petitioner did not fall for consideration of the respondents-authorities, as the order under

Section 452 (2) of the HMC Act, 1955 came to be passed on 10.1.2017, whereas admittedly the explanation was submitted by the petitioner on 11.1.2017. Inasmuch as the entire construction of the building was allowed to have been made by the respondents-authorities by closing their eyes during the construction period, if one more opportunity is given to the petitioner, no prejudice would be caused to the respondents-authorities.

In that view of the matter, there shall be stay of demolition of the building of the petitioner with a direction to the respondents-authorities to take into consideration of the explanation submitted by the petitioner and pass appropriate orders in accordance with law.

First respondent-Commissioner shall also take necessary action against the concerned officials who are responsible for ignoring the construction of the multi-storied complex being done without there being any permission. A copy of this order be sent to the first respondent.

The writ petition is accordingly disposed of. Miscellaneous applications, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J

Dt.20.1.2017
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