

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE DR JUSTICE SHAMEEM AKTHER

Writ Appeal No.300 of 2017 & Writ Petition No.6067 of 2017

COMMON JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the *ad interim* order passed by the Learned Single Judge in W.P.M.P.No.7449 of 2017 in W.P.No.6067 of 2017 dated 22.02.2017 directing the appellant-2nd respondent not to make any further construction adjacent to the house of the respondent-writ petitioner till she left setbacks towards the house of the petitioner.

Sri B.Sesibhushan Rao, learned counsel for the appellant-2nd respondent, would submit that the Commissioner, Nandyal Municipality has the power, under Section 217(1)(b)(i) of the A.P. Municipalities Act, 1965 (for short "the Act"), to make such alterations as may be specified in the said notice with the object of brining the work in conformity with the sanctioned plan. Sri Md. Saleem, learned Standing Counsel for the Nandyal Municipality, would refer to Section 217(3) of the Act to submit that the Commissioner has the power to confirm the notice subject to such modifications as he may think fit.

All the counsel i.e Sri B.Seshibhushan Rao, learned counsel for the appellant-2nd respondent, Sri P.Nagendra Reddy, learned counsel for the respondent-writ petitioner, and Sri Md. Saleem, learned Standing Counsel for the Nandyal Municipality, would agree that an order be passed disposing of the writ petition itself directing the Commissioner, Nandyal Municipality to take action in terms of Section 217(1)(b) of the Act within a specified time frame.

We consider it appropriate, in such circumstances, to direct the Commissioner, Nandyal Municipality to take action for the alleged deviations made by the appellant-2nd respondent in accordance with Section 217(1)(b) of the Act, after giving the appellant-2nd respondent an opportunity of being heard. The entire exercise, culminating in an order being passed by the Commissioner in terms of Section 217 of the Act, shall be completed within a period of three months from the date of receipt of a copy of this order.

Till the Commissioner passes final orders under Section 217(3) of the Act, after putting the appellant-2nd respondent on notice under Section 217(1) of the Act and after giving her an opportunity of being heard, the appellant-2nd respondent shall not make any further construction. In case the respondent-writ petitioner makes a written request in this regard, the Commissioner, Nandyal Municipality shall also afford him an opportunity of being heard.

Both the Writ Appeal and the Writ Petition are disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

16th March, 2017
JSU

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Date: 16.03.2017

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