

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

WRIT PETITION No.24903 of 2017

ORDER:

Heard learned counsel for the petitioners, learned Government Pleader for Municipal Administration & Urban Development (A.P) for respondent Nos.1 and 2, learned Standing Counsel for respondent No.3 and learned counsel for respondent Nos.4 and 5.

2. Speaking orders bearing Roc.No.1847/2016/KMC/A4, dated 27.04.2017, passed by the third respondent are under challenge in the present writ petition.

3. Earlier, the petitioners herein filed W.P.No.27223 of 2016 before this Court and, in WPMP.No.33728 of 2016, this Court on 16.08.2016 passed an interim order directing respondent No.3 to consider the petitioners' representations dated 31.10.2011 and 17.07.2017 and pass orders within a period of two weeks. In pursuance of the said order, respondent No.3 passed an order dated 05.11.2016, effecting transfer of title in the municipal records. By way of the orders under challenge, respondent No.3 cancelled the earlier order passed on 05.11.2016.

4. According to the learned counsel for the petitioners the said action on the part of the respondents is highly illegal, arbitrary and violative of Article 14 of the Constitution of India besides being opposed to the very spirit and object of the provisions of the Municipal Corporation Act and the Rules framed thereunder. He submitted that the impugned orders are also totally violative of principles of natural justice.

5. On the other hand, it is submitted by the learned Standing Counsel for respondent No.3 and the learned counsel for respondent

Nos.4 and 5 that there is neither any illegality nor there exists any procedural infirmity in the impugned action, as such, the impugned action is not amenable for any judicial review under Article 226 of the Constitution of India.

6. It is a settled and established principle of law that any action, which has civil consequence, must necessarily be preceded by a notice to the persons likely to be affected by such action. In the present case, the said principle is followed in breach. Therefore, on this ground alone, the impugned orders are liable to be set aside and the matter requires reconsideration by respondent No.3.

7. For the aforesaid reasons, the writ petition is allowed, setting aside the order of respondent No.3, dated 27.04.2017. However, it is open for the respondents to issue a notice to the petitioners and proceed further in accordance with law, after giving opportunity to all the stakeholders. Consequently, miscellaneous petitions, if any, pending in this writ petition shall stand disposed of. There shall be no order as to costs.

Date: 29.08.2017
TJMR

A.V. SESA SAI, J