

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.10626 of 2017

ORDER:

This Writ Petition is filed seeking the following relief:

“....to issue a writ, order or direction more particularly one in the nature of writ of Madamus under Article 226 of Constitution of India declaring the action of the respondent authorities in demolishing the structure on the 2nd floor pursuant to their show cause notice UC No. /2017-TPBO-III, dated 17.02.2017 without considering my reply dated 25.02.2017, which was submitted to them on 27.02.2017 as illegal, arbitrary, violative of principles of natural justice, against provisions of Andhra Pradesh Municipalities Act, 1965, apart from being violative of Article 14 and 300-A of the Constitution of India and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case and in the interest of justice.”

It is the contention of the petitioner that he purchased the site an extent of 310 sq.yards situated in Nejaji Street, Ashok Nagar, Kakinada, under a Registered sale Deed dated 12.10.1995 and after obtaining building plans vide B.A.No.457/96-G3, dated 08.08.1996 and B.A.No.363/2013-G4, dated 06.07.2013, he constructed ground and 1st floors in the year 1996 and 2016 respectively, and has been paying taxes to the municipality regularly. However, the respondent authorities issued impugned show cause notice dated 17.02.2017 alleging that he made unauthorized construction in 2nd floor with 2 rooms and deviated in side open space on south side by not leaving 1.00 M open space, thereupon he submitted his explanation, dated 25.02.2017, to the respondent authorities stating that he has constructed the 1st floor on the existing ground floor columns by leaving sufficient setbacks around his property, however, with a view to place overhead tank and also with a view to place certain solar panel equipment, he raised a small terraced structure and on its roof he placed a water

tank, which looks like two rooms on the 2nd floor, but that structure does not meant for living and did not make any construction in the 2nd floor of his building. However, without considering his explanation dated 25.02.2017, the respondent authorities are taking steps to demolish the structures on the 2nd floor. Hence, the present writ petition.

Sri Ancha panduranga Rao, learned Government Pleader for Municipalities, submits that respondent No.2- Municipality shall consider the explanation that would be submitted by the petitioner and, only thereafter, necessary action would be taken in accordance with law.

In the light of the submissions of the respective parties, liberty is given to the petitioner to submit his explanation afresh, within two weeks from the date of receipt of a copy of this order, and the same shall be considered by respondent No.2- Municipality, in accordance with law, and if the explanation is found not satisfactory, necessary action be taken in accordance with law. Respondent No.2-Municipality shall not take any coercive steps till orders are passed, after considering the explanation submitted by the petitioner.

The Writ Petition is, accordingly, disposed of.

Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

CHALLA KODANDA RAM, J

Date: 27.03.2017
 Note:CC in two days
 B/o
 Ssv