

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.44478 of 2016

Date: 05.01.2017

Between:

Vasolla Gangadhar s/o. V.Narayana, Aged 45 years,
Occu: Business, R/o. H.No.1-12-123/A1, Srinagar
Colony, Vinayak Nagar, Nizamabad.

.....Petitioner

and

The Municipal Corporation of Nizamabad,
Nizamabad, rep. by its Commissioner
and another

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.44478 of 2016

ORDER:

Petitioner claims to be the owner of the plot in Sy.No.365/A & 364 of Vinayak Nagar, Nizamabad. Petitioner got the said plot regularized claiming that it was part of unapproved layout. Municipal Corporation noticed that said plot is an open place as part of the layout and, therefore, it vests in the Municipal Corporation. Thus, show-cause notice dated 25.11.2016 was caused on the petitioner calling upon the petitioner to submit his explanation. The show-cause notice was sent to the address available with the Municipal Corporation i.e., H.No.1-1-537, Hanman Nagar, Nizamabad. The postal endorsement discloses the service of notice. Since there was no response from the petitioner within the time granted, final order was passed on 08.12.2016 revoking the earlier regularization granted in favour of the petitioner. In this writ petition, petitioner challenged the said order dated 08.12.2016.

2. The primary ground on which challenge is made, as disclosed from paragraph-4 of the affidavit filed in support of the writ petition, is that show cause notice dated 25.11.2016 was not served on the petitioner and, therefore, petitioner has no knowledge about the said show-cause notice and, therefore, petitioner could not file his explanation. Learned counsel further submits that petitioner has sufficient material available and if only an opportunity was afforded to him, he would have explained.

3. Learned standing counsel produced computer statement of the Municipal Corporation showing the service of notice on Mr. Gangadhar. He also points out that final order impugned in this writ petition was also received by the same person also sent to the

same address. However, learned counsel for petitioner vehemently denies the service of notice.

4. By virtue of the order impugned, the earlier regularization granted in favour of the petitioner stood cancelled and there is now a cloud on legality of plot claimed to have been owned by him. Thus, the order impugned has civil and legal consequences. In view of the same, without going into controversy whether notice was served on the petitioner or not, to balance the equities, this Court deem it proper to treat the order dated 08.12.2016 as show-cause notice and grant opportunity to the petitioner to submit his explanation within a period of two weeks from the date of receipt of copy of this order. If such explanation is filed by the petitioner in two weeks, the competent authority shall consider the same and pass orders by assigning due reasons in support of his decision and communicate the decision to the petitioner. However, if the petitioner does not file his explanation within the time granted, the impugned proceedings stand revived and it is open to the Municipal Corporation to proceed further based on the said orders. If the explanation is filed with the time granted, petitioner and respondent-Corporation shall maintain *status quo* obtaining as on today with reference to the subject property.

5. The writ petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 04.01.2017
kkm

HON'BLE SRI JUSTICE P.NAVEEN RAO



WRIT PETITION NO.44478 of 2016

Date: 05.01.2017

kkm