

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

WRIT PETITION No.28976 of 2017

ORDER:

Heard Smt.G.Jhansi, learned counsel for the petitioners, learned Government Pleader for Municipalities for respondent Nos.1, 4 to 6, and Sri P.Kesava Rao, learned Standing Counsel for respondent Nos.2 and 3.

According to the petitioners they are the residents of Ambedkar Nagar slum in T.S.No.2,3 and 4, Block C, Ward No.78, Sy.No.44, situated at Necklace road, Nallagutta, Secunderabad, Telangana State and there are about 350 families residing in the said slum area. It is stated that the petitioners herein, along with other slum dwellers, are residing in the said area by constructing pacca houses with RCC roofs for the past 70 years and the houses of the petitioners have been assessed to property tax. Earlier, the petitioners herein filed W.P.No.23112 of 2017 before this Court questioning the action of the respondents in trying to dispossess them from their houses. This Court, on 28.07.2017, passed interim order directing the respondents not to dispossess the petitioners without following the due process of law.

Now, by virtue of the impugned notice, bearing No.212/4/5/TPS/C-30/NZ/GHMC/2017 dated 23.08.2017, the

respondent authorities directed the petitioners herein to remove their buildings within three days. Petitioners challenge the validity and legal sustainability of the said order.

According to the learned counsel for the petitioners, the impugned notice dated 23.08.2017, issued by the GHMC under Section 636 of the Hyderabad Municipal Corporation Act, 1955, is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 21 of the Constitution of India besides being opposed to the very spirit and object of the provisions of the Hyderabad Municipal Corporation Act, 1955. It is further stated by the learned counsel for the petitioners that the respondent authorities did not issue any show cause notice before issuing notice under challenge and the same is violative of principles of natural justice.

A perusal of the impugned notice does not disclose any issuance of show cause notice before resorting to the impugned action. On this ground, the impugned notice dated 23.08.2017 is liable to be set aside.

For the aforesaid reasons, the Writ Petition is allowed, setting aside the notice bearing No.212/4/5/TPS/C-30/NZ/GHMC/2017 dated 23.08.2017, issued by the Deputy Commissioner, Circle No.30-third respondent herein. However, it is open for the respondent authorities to issue a show cause

notice, calling upon the petitioners herein, to offer explanation and to proceed in accordance with law after giving opportunity of hearing to the petitioners herein.

As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

28th August, 2017
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