

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.34310 of 2015

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking to declare the notice dated 19.09.2015 issued by the 2nd respondent in respect of shop bearing Door No.5-3-31 situated in Birla Bhavan Centre, Main Bazar, Eluru, West Godavari District, as illegal and arbitrary.

Heard the learned counsel for the petitioner, learned Standing Counsel for respondents 1 and 2 and learned counsel for respondent No.3.

Though various grounds are raised in the writ petition, learned counsel for the writ petitioner submits that pursuant to the notice dated 19.09.2015 issued by the 2nd respondent, the petitioner submitted his explanation on 28.09.2015 and without passing any orders thereon, the respondent-authorities are trying to demolish the building.

The same is opposed by the learned standing counsel as well as learned counsel appearing for R.3.

Learned Standing Counsel would submit that as the respondent-authorities have not received any explanation, as claimed by the petitioner herein, the question of considering the explanation would not arise. He further submits that there is any amount of doubt as to whether any such explanation was submitted by the petitioner.

It is the case of the petitioner that as soon as the notice dated 19.09.2015 was served on him, he submitted his explanation within a period of one week thereafter as demanded in the notice.

It is true that no acknowledgement is filed by the petitioner showing proof of submission of his explanation. At the same time, it is to be noted that it has been specifically averred in the affidavit filed in support of the writ petition that explanation has been submitted.

Having regard to the above circumstances, without going into the merits of the case, the Writ Petition is disposed of directing the 2nd respondent to pass appropriate orders on the explanation dated 28.09.2017, said to have been submitted by the petitioner, in accordance with law. However, if such an explanation is not available as urged by the learned Standing Counsel, the petitioner shall furnish a copy of said explanation in the office of the 2nd respondent within a period of two days from today and thereafter the 2nd respondent shall pass orders in accordance with law, after hearing all concerned, within a period of one week. Meanwhile, the respondents shall not take any coercive steps of demolition. It is made clear that in case if any untoward thing happens to the building, the respondents herein shall not be held liable.

Miscellaneous petitions pending in this writ petition, if any, shall stand closed. No costs.

JUSTICE C. PRAVEEN KUMAR

15.03.2017
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