

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.3442 of 2017

ORDER:

Petitioner seeks to set aside the notice dated 10.01.2016 issued under Section 452 (2) of the Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act') on the ground that it depicts non-application of mind on the part of the 3rd respondent Deputy Commissioner.

It is the case of the petitioner that he got constructed the house in the year 2010 in H.No.23-6-128/26, Durga Devi Colony, Hunter Road, Hanamakonda, Warangal District and the said house was assessed by the 2nd respondent. When the said house was in dilapidated stage, the petitioner informed the same to the 4th respondent and paid the L.R.S Rs.21,130/- on 31.08.2016 and thereafter made an application before the 3rd respondent for grant of permission to demolish the house and to reconstruct the same. Accordingly, the 3rd respondent orally directed the petitioner to remove the old structure and may construct the new house. Accordingly, the petitioner removed the old structures and started the construction of the new house. At that stage, the 3rd respondent issued a show cause notice dated 19.12.2016 directing the petitioner to remove the new construction. Thereafter, the petitioner submitted an explanation on 04.01.2017 and also on 11.01.2017 stating that the petitioner had applied for construction permission on 05.01.2017 to the 2nd respondent. Without considering all these aspects, the 3rd respondent mechanically issued the impugned notice dated 10.01.2017.

Heard learned counsel for the petitioner.

The Writ Petition is resisted by the learned Standing Counsel for Respondents 2 and 3 and the action taken pursuant to the orders of this Court in earlier Writ Petition No. 22344 of 2015 filed by the petitioner

therein, which is evident from the notice issued under Sections 452(1) and 461 of the Act dated 20.12.2016. However, the learned Standing Counsel fairly submits that necessary action would be taken in accordance with law after considering the objections filed by the petitioner.

The petitioner asserts that the explanations were submitted on 04.01.2017 and 11.01.2017, pursuant to the show cause notice dated 19.12.2016. It may be noted that the impugned order is a stereo-type standard form, which indicates non-application of mind by the 3rd respondent Deputy Commissioner as there is no reference to the objections and there are no reasons why the explanations submitted by the petitioner cannot be considered. As a matter of fact, there is a clear violation of the orders of this Court passed in earlier Writ Petition No. 22344 of 2015, as is referred to in the impugned proceedings. According to the learned counsel for the petitioner, the above-said Writ Petition (W.P.No. 22344 of 2015) is not of the year 2015, but it is of 2005.

In the facts of the present case, the notice dated 19.12.2016, being a non-speaking order without reference to the explanations submitted by the petitioner, the same is set aside, however, giving liberty to Respondents 2 and 3 to make a fresh order duly dealing with the objections filed by the petitioner. Till such time the order is made, no coercive steps shall be taken against the petitioner.

With this, the Writ Petition stands disposed of. No order as to costs. Miscellaneous Petitions pending, if any, in this writ petition shall stand closed.

CHALLA KODANDA RAM,J

02.02.2017.

Note:

Issue CC forthwith.

B/o.

GK

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM



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