

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.17455 OF 2017

ORDER:

The writ petition is filed by the petitioner seeking a writ of Mandamus to declare the action of the 2nd respondent in proceeding with the demolition of the structure at Door No.12-10-26, Ward No.34, Middle Street, Aryapuram, Rajahmehdravaram, East Godavari District, pursuant to the notice, dated 24.05.2017, issued under Section 636 of the Hyderabad Municipal Corporation Act (for short 'HMC Act'), without conducting any enquiry, as illegal and arbitrary and consequently, direct the respondents not to interfere with the petitioner's peaceful possession and enjoyment of the said property.

Heard and perused the material available on record.

The main contention of the learned counsel for the petitioner is that in the impugned notice it is observed that the petitioner failed to submit his explanation to the earlier notice issued under Sections 440, 441 and 452 of the HMC Act, but in fact, the petitioner had already submitted his explanation to the earlier notice on 26.10.2016 to the 2nd respondent, and the same was also acknowledged by the 2nd respondent.

It is evident from a perusal of the impugned notice that the impugned order is passed without taking into consideration the explanation given by the petitioner. Therefore, the impugned order is liable to be set aside.

Accordingly, the writ petition is allowed setting aside the order, dated 24.05.2017, passed by the 2nd respondent. The petitioner is

directed to submit his explanation afresh to the notice issued to him under Sections 440, 441 and 452 of the HMC Act on 21.10.2016, and the 2nd respondent is directed to consider the case of the petitioner by taking into consideration the explanation submitted by the petitioner on 26.10.2016 and also the fresh explanation of the petitioner, and pass appropriate orders in accordance with law. No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

RAJA ELANGO, J

June 02, 2017
KTL

