

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

W.P.No.34831 of 2017

ORDER:

Heard Sri Muddu Vijai, learned counsel for petitioner and Sri Sampath Prabhakar Reddy, learned Standing Counsel for Respondents 2 and 3.

2. According to the learned counsel for the petitioner, petitioner is the absolute owner and possessor of property bearing H.No.15-25/3/A, Plot No.1/part, situated in Sy.No.1, Srinivas Nagar Colony, Ramachandrapuram, Sangareddy district, having purchased the same under a registered sale deed bearing document No.12095/2007 dated 31.5.2007. It is further averred that the petitioner herein applied for permission and the Respondent Corporation granted permission vide proceedings No.BA/1777/DC/WZ/Cir-13/2011 dated 15.4.2011 and according to the petitioner, he constructed the building and paying property tax regularly. It is averred that the Respondent Corporation issued notice under Section 452 (1) and 461(1) of Hyderabad Municipal Corporation Act, 1955 dated 4.10.2017, alleging illegal construction of shutters by encroaching open drain opposite to Ramachandrapuram Graveyard. The petitioner herein submitted an explanation on 16.10.2017 and the Respondent authorities acknowledged the same on 17.10.2017. By way of impugned notice issued under Section 636(1) of Hyderabad Municipal Corporation Act, 1955, the 3rd respondent directed the petitioner to remove the construction within 24 hours. According to the learned counsel for the petitioner, the impugned action is arbitrary, illegal and violative of Articles 14 and 300-A of the Constitution of India. It is the further submission of the learned counsel for the petitioner that the Respondent authorities without

taking into consideration the explanation offered by the petitioner, passed the order under challenge.

3. On the other hand, on instructions, it is submitted by the learned Standing Counsel appearing for Respondent Corporation that the explanation offered by the petitioner will be considered and appropriate orders will be passed strictly in accordance with law.

4. Having heard the learned counsel for the petitioner and the learned Standing Counsel for Respondent Corporation, this Court is of the opinion that the ends of justice would be met by passing the following order.

5. For the aforesaid reasons, the writ petition is allowed, setting aside the Notice issued under Section 636 of Hyderabad Municipal Corporation Act, 1955 vide proceedings Order No.60/TPS/Gir-22/WZ/GHMC/ 2017 dated 16.10.2017 by the 3rd respondent and it is open for the Respondent Corporation to pass appropriate orders, after taking into consideration the explanation offered by the petitioner herein. It is also open for the petitioner to file additional documents, if any, before the authorities for their consideration within a period of (2) weeks from today. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 20.10.2017
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20.10.2017

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