

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.36656 of 2017

ORDER:

This Writ petition is filed assailing the action of the respondents in issuing Notice No.15/ ACP-17/ TPS/ CZ/ GHMC/ 2017, dated 31.10.2017.

I have heard the submissions of the learned counsel for the petitioner and of the learned standing counsel representing the 2nd respondent. I have perused the material record.

By the afore-said notice, the explanation of the petitioner, dated 15.11.2016, was stated to have been disposed of and the petitioner was directed to remove the construction in question said to have been made in the common area of the ground floor of subject apartments within three days; and, it was further stated in the said notice that on failure to do so, further action will be taken as per the provisions of Sections 636/ 596/ 461(4)/ 461A of the Hyderabad Municipal Corporation Act, 1955.

Learned counsel for the petitioner would submit as follows: - 'The first notice, in respect of the same matter, was issued on 09.11.2016 under Section 452(1) and 461(1) of the said Act. An explanation was promptly submitted by the petitioner. Later no action was taken. However, the impugned notice was issued by making a reference to an online grievance complaint no.2016-10-W289389, dated 24.10.2016, said to have been given by one Jayaprakash without furnishing a copy of the same to the petitioner and without affording an opportunity to him to submit his explanation, if any, in response to the said complaint.'

Learned standing counsel would submit that the construction, which is in question, was made in the common area as stated in the notice and that along with the explanation, no documentary evidence is produced and that on

consideration of the explanation, the decision was arrived at before issuing the impugned notice by the competent authority and that the notice is sustainable under facts and in law.

Admittedly a copy of the online grievance complaint, dated 24.10.2016, said to have been given by one Jayaprakash was not furnished to the petitioner before issuing the notice which is impugned. In that view of the matter, this Court is of the considered view that the writ petition can be disposed of passing appropriate orders.

In the result, the Writ Petition is disposed of and the notice impugned is set aside. The 2nd respondent is directed to furnish to the petitioner a copy of the online grievance complaint, dated 24.10.2016, said to have been given by one Jayaprakash and afford an opportunity to the petitioner to submit his written explanation within a reasonable time and then take a decision afresh in the matter in strict accordance with the procedure established by law and communicate the same to the petitioner within a week thereafter. Till the above said exercise is completed, no coercive steps or coercive action shall be taken in respect of the property of the petitioner. Nonetheless, the petitioner shall maintain absolute *status quo* without making any alternations or further constructions in the subject property except by following the procedure established by law.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M. Seetharama Murthi, J

01.11.2017

Note: Issue CC by 02.11.2017.

[B/o]

Vjl