

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.41973 of 2017

ORDER:

This writ petition is filed assailing the action of the respondents in issuing Notice No.AG-19/ACP-17/TPS/CZ/GHMC/2017, dated 23/31.10.2017.

2. I have heard the submissions of learned counsel for the petitioner and of Sri Sampath Prabhakar Reddy, learned Standing Counsel appearing for the second respondent. I have perused material record.

3. By the afore-stated 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 extended portion on the common area of ground floor of Shanthibagh Apartments within three days; and, it was further stated in the said notice that on failure of the petitioner to do so, further action will be taken as per Sections 636/596/461(4)/461A of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act').

4. 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 Sections 452(1) and 461(1) of the 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 online grievance, dated 24.10.2016, and a telephonic complaint, dated 10.10.2017, said to have been given by one Jayaprakash. A copy of the said complaint is not furnished to the petitioner and without affording an opportunity to him to submit his explanation, if any, in response to the said complaint, coercive action is being taken.'

5. Learned Standing Counsel appearing for the second respondent would support the notice impugned in the writ petition stating that the said notice was issued in accordance with procedure established by law.

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

7. In the result, the Writ Petition is disposed of and the notice impugned is set aside. The second 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. If the petitioner makes any further constructions without obtaining necessary permissions, the second respondent authority is at liberty to proceed against such constructions by following the procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

M. SEETHARAMA MURTI, J

Date: 15.12.2017
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