

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.6152 of 2018

ORDER:

Heard the learned counsel for petitioners and Sri N.Praveen Kumar, Standing Counsel from oral instructions offering to appear for respondent No.2 Municipality, the learned Government Pleader for Municipal Administration & Urban Development for respondent No.1 and perused the prayer in the writ petition with supporting affidavit and the order in W.P.No.29784 of 2017, dated 04.09.2017, pursuant to which the explanation of petitioners dated 06.09.2017, acknowledged by respondent No.2 of even date, and the impugned notice of respondent No.2 dated 16.02.2018. The prayer in the writ petition is as follows:

“to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of respondent No.2 in passing the impugned order No.G1/543/2017 dated 16.02.2018 as illegal, arbitrary, contrary to the provisions of the Municipalities Act and gross violation of the principles of natural justice apart from violation of Articles 14, 21 and 300-A of the Constitution of India and consequently direct the respondents not to interfere with the petitioners' house property and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. It is the submission from the affidavit averments in support of the prayer in the writ petition that the impugned notice is in violation of the principles of natural justice and in violation of the direction of this Court in W.P.No.29784 of

2017, despite explanation, pursuant to the direction, submitted on 06.09.2017 acknowledged by respondent No.2 in ignoring the same in saying as if no explanation submitted.

Learned counsel for respondent No.2 could not deny the influence of the endorsement on receiving of the explanation on 06.09.2017 and thereby, the impugned notice dated 16.02.2018 in referring at page 1 last line as if no explanation submitted is in ignorance of the acknowledged explanation submitted on 06.09.2017.

In view of the above, this Writ Petition is allowed and the impugned notice dated 16.02.2018 is set aside with a direction to respondent No.2 to pass appropriate orders by considering the explanation, already submitted by the petitioners dated 06.09.2017, acknowledged by the office of respondent No.2, within a period of three (3) weeks from the date of receipt of a copy of this order and communicate the same to the petitioners. In the meantime, the respondents shall not take any coercive steps pursuant thereto. No order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

23.02.2018
MVA