

HONOURABLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No. 16326 OF 2016.

ORDER:

Heard the learned counsel for the petitioner as well as the learned standing counsel for the first respondent-Municipal Corporation.

2. The prayer sought in the writ petition is as under :

to issue a writ of mandamus declaring the action of the respondent in issuing the show cause notice date 29/4/2016 under U.C.No. 07/2015/BO-II Division-16 and to declare the same as illegal, arbitrary and violative of Article 14, 16, 19 and 300 [A] of the Constitution of India without passing orders on the earlier show cause notice and also GOs issued by the Government from time to time and consequently to direct the respondents to follow the due process of law and also to consider the objections of the petitioner before taking any final decision and to pass such other or further orders as this court may deem fit.

3. The facts of the case are that the petitioner is the owner of the site bearing Door No. 69-32-6/1, CTRI Road, Bhaskar Nagar, Rajahmundry, East Godavari district. On 01/12/2015, the first respondent-corporation issued a notice, vide U.C.No. 07/2015/BO-II asking him to remove three shops constructed in his site. He gave reply on 16/12/2015 stating his objections. Without

any valid reasons and without considering the objections raised by the petitioner, the first respondent-corporation have issued proceedings U.C.No.07/2015/BO-II, dated 29/4/2016 asking him to remove the structures. Immediately, thereafter he filed another objection dated 09/5/2016. Since the first respondent-corporation is trying to demolish the structures, the present writ petition is filed.

4. The learned counsel appearing on behalf of the petitioner would submit that without passing any orders on the explanation submitted by him, the first respondent-corporation cannot demolish the structures in the subject premises.

5. Per contra, the counsel appearing for the first respondent-corporation submitted that on 12/05/2016 this Court passed interim orders to the effect that demolition, if any, shall be strictly in accordance with the due procedure laid down by law. Therefore, he would submit that the objections filed in the form of explanation dated 16/12/2015 and 09/05/2016 will be considered and appropriate orders will be passed.

6. A perusal of the material on record would disclose that the petitioner has submitted two explanations to the notice issued under section 452. Unless the objections raised by the petitioner in those explanations are considered and appropriate orders are passed, the structures raised by the petitioner cannot be removed.

7. Therefore, the first respondent-corporation is directed to consider the objections raised by the petitioner in his explanations

dated 16/12/2015 and 09/05/2016 respectively and pass appropriate orders after giving an opportunity of hearing to the petitioner, within two months from the date of receipt of a copy of this order. It is needless to observe that till final orders are passed the first respondent-corporation is restrained from taking any coercive steps for demolishing the structures raised in the subject premises. It is also observed that the petitioner is restrained from making any further constructions or any alterations in the subject premises.

8. With the above observation, this writ petition is disposed of. No costs.

9. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.



JUSTICE P. KESHAVA RAO.

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{ DISPOSED OF }

Date: 18/04/2018

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