

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

WRIT PETITION No.15538 of 2018

ORDER:

Heard the learned Counsel for the petitioner, Sri D.Ramesh Kumar, learned Standing Counsel for the respondent Nos.2 and 3 and Sri G.Seshadri for R.4.

2. A final order passed by the 3rd respondent vide proceedings Rc.No.CRDA-12029(51)/05/2018, dated 23.04.2018, under Section 115 (3) of the Andhra Pradesh Capital Region Development Authority Act, 2014 (hereinafter referred as 'the Act') is under challenge in the present Writ Petition.

3. According to the petitioner, she is the absolute owner and possessor of the residential site admeasuring 215 Sq.Yards in D.No.15/1 of Undavalli village, Tadepalli Mandal, Guntur District, having purchased the same by way of registered sale deed, dated 30.05.2012, bearing document No.4550 of 2012 for valuable consideration. It is further averred that on the application submitted by the petitioner herein for grant of permission for construction, the 4th respondent-Gram Panchayat by way of proceedings ROC No.2/2016, dated 30.09.2016, accorded permission for construction of Ground, First and Second floors, and according to the petitioner, she made construction in accordance with the sanctioned plan. The 3rd respondent, on 15.03.2018, issued a show-cause notice under Section 115 (1) of the Act pointing out certain deviations in the constructions including the construction of third floor. On

20.03.2018, the petitioner herein submitted an explanation to the 4th respondent-Panchayat Secretary. Thereafter, vide proceedings, dated 23.04.2018, the 3rd respondent passed an Order, which is under challenge, under Section 115 (3) of the Act confirming the provisional notice issued earlier under Section 115 (1) of the Act.

4. According to the learned Counsel for the petitioner, the Order impugned is highly illegal and arbitrary and in clear violation of principles of natural justice. It is further submitted by the learned Counsel for the petitioner that without considering the explanation offered by the petitioner herein, dated 20.03.2018, the 3rd respondent passed the impugned order.

5. On the other hand, it is submitted by the learned Standing Counsel for R.2 and R.3, reiterating the contents of counter affidavit, that the 3rd respondent did not receive any explanation from the petitioner herein and as such, the impugned order cannot be faulted.

6. A perusal of the explanation, dated 20.03.2018, clearly discloses that the same was submitted to the Panchayat Secretary-R.4 herein instead of 3rd respondent, who issued the provisional order calling upon the petitioner herein to show cause. It also shows that a copy of the same was also marked to the 3rd respondent. But the receipt of the same is disputed by the 3rd respondent in the counter affidavit.

7. Since valuable rights are involved in the matter and as the petitioner herein submitted an explanation on 20.03.2018 to the

4th respondent and in order to put a quietus for this problem, this Court deems it appropriate to give an opportunity to the petitioner herein to have her explanation considered.

8. For the aforesaid reasons, the Writ Petition is allowed, setting aside the impugned order, dated 23.04.2018, issued by the 3rd respondent and the petitioner herein shall submit explanation to the 3rd respondent within a period of one week from today. If any such explanation is submitted by the petitioner herein, within the stipulated time, the same be considered and appropriate final orders will be passed strictly in accordance with law. It is also made clear that the petitioner herein shall not make any further constructions in the subject matter.

As a sequel, miscellaneous petitions pending, if any, in this Writ Petition, shall stand closed.

Date: 10.07.2018
smr

A.V.Sesha Sai, J

