

HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.18358 OF 2018

ORDER:

Heard learned counsel for the petitioners and Sri Sampath Prabhakar Reddy, learned Standing Counsel appearing for the respondent – Corporation.

The sum and substance of the case of the petitioners, in the present writ petition, is that without being preceded by any show-cause notice and opportunity of being heard to the petitioners herein, the Commissioner of GHMC passed the orders of revocation of the building permission under Section 450 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'GHMC Act') *vide* proceedings No.1/C11/04476/2017/379, dated 16.04.2018/05.05.2018.

Section 450 of the GHMC Act empowers the Commissioner of the Corporation to cancel permission on the ground of material misrepresentation by the applicants. It is categorically stated by the petitioners in the present writ petition that the respondent – Corporation issued the impugned order in total violation of the principles of natural justice.

On the other hand, when the matter is taken up, it is submitted by Sri Sampath Prabhakar Reddy, learned Standing Counsel for the respondent – Corporation, that a show-cause notice, dated 02.04.2018, referred in the impugned revocation order, as reference No.2, was pasted on the R.C.C. Column pillars on 04.04.2018 but the petitioners herein are continuing with the construction work.

Section 630 of the GHMC Act deals with service of the notices on the owners of premises and other persons, which reads as follows:

“630. Service how to be effected on owners of premises and other persons:- When any notice, bill, schedule, summons or other such document is required by this Act, or by any regulation or bye-law made under this Act, to be served upon or issued or presented or given to any person such service, issue or presentation shall except in the cases otherwise expressly provided for in Section 657 be effected-

(a) by giving or tendering to such person the said notice, bill schedule, summons or other documents; or

(b) if such person is not found, by leaving the said notice, bill, schedule, summons or other documents at his last known place of abode in the city or by giving or tendering the same to some adult male member or servant of his family; or

(c) if such person does not reside in the City, and his address elsewhere is known to the Commissioner by forwarding the said notice, bill, schedule, summons or other documents to him by post under cover bearing the said addresses ; or

(d) if none of the means as aforesaid be available by causing the said notice, bill, schedule, summons or other documents to be affixed on some conspicuous part of the building or land, if any, to which the same relates.”

While referring to the above provision of law, it is submitted by the learned counsel for the petitioners that clause (c) of Section 630 mandates, in the event of non-availability of the person, to effect the service by way of post under cover bearing the said address; but in the instant case, the same is given a go by by the respondent – Corporation.

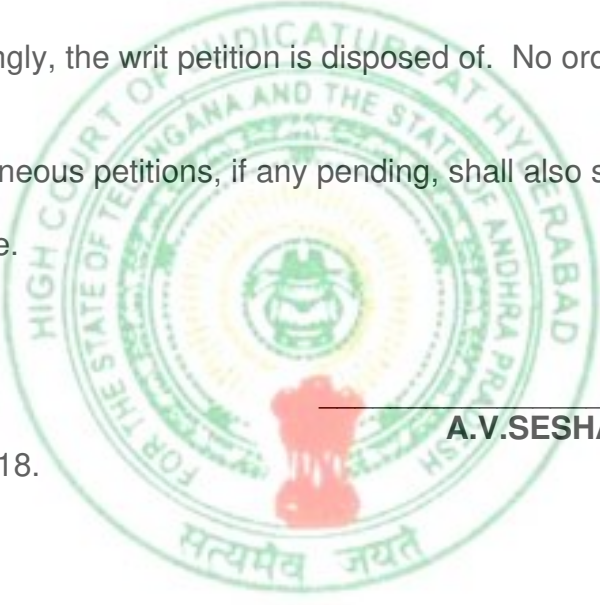
However, in order to put a quietus to this litigation, this Court deems it appropriate to dispose of the writ petition by directing the impugned revocation order dated 16.04.2018/05.05.2018 be treated as a show-cause notice by keeping it open for the petitioners herein to submit

an explanation for the same within a period of two (2) weeks from the date of receipt of a copy of this order. If any such explanation is filed, the same shall be considered and appropriate final orders be passed, strictly in accordance with law. Till the said exercise attains finality, no coercive action shall be taken by the respondent – authorities with regard to the said construction and the petitioners be restrained from creating any third party rights. It is also made clear that if no such explanation is offered by the petitioners within the stipulated time, as directed above, this order will not enure to the benefit of the petitioners and it is open for the respondent – Corporation to take action in accordance with law.

Accordingly, the writ petition is disposed of. No order as to costs.

Miscellaneous petitions, if any pending, shall also stand disposed of in consequence.

Date: 27.08.2018.
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A.V.SESHA SAI, J

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