

THE HONOURABLE SRI JUSTICE A. V. SESA SAI

WRIT PETITION No.19137 of 2018

ORDER:

Heard learned counsel for the petitioner and Sri N. Ashok Kumar, learned Standing Counsel for GHMC appearing for respondent Nos.2 and 3.

According to the petitioner, he is the owner and possessor of the subject property of the writ petition and has obtained valid building permission from the respondent Corporation on 13.06.2016 and started making constructions. The respondent Corporation vide impugned notice bearing No.RC/ 5/ 347/ DC/ C12/ GHMC/ 2018, dated 24.05.2018, issued under Section 450 of the Hyderabad Municipal Corporation Act, 1955, revoked the subject building permission obtained in the year 2016 and had given three days' time to the applicant to submit valid and necessary documents and also directed the petitioner to stop the construction work.

According to learned counsel for the petitioner, the action impugned is highly illegal, arbitrary and unreasonable and it is in patent violation of Article 14 of the Constitution of India, besides being violative of the principles of natural justice. It is the further submission of the learned counsel that the petitioner herein filed a civil suit vide O.S.No.3034 of 2017 on the file of XXI Junior Civil Judge, City Civil Court, Hyderabad, against the respondents 4 and 5 for perpetual injunction and also filed I.A.No.478 of 2017 for temporary injunction. It is further stated that the Civil Court on 06.04.2018 in I.A.No.478 of 2017 granted injunction in favour of the petitioner and the same is subsisting as on date. It is the further submission of the learned counsel that

before issuing the impugned notice, the petitioner submitted a representation on 19.05.2018 to the Zonal Commissioner, GHMC, Khairatabad, Hyderabad, duly bringing to the notice of the Corporation authorities the pendency of the suit and the existence of injunction order against respondents 4 and 5.

A perusal of the impugned notice, dated 24.05.2018, discloses in clear terms that before resorting to the impugned action, the respondent Corporation did not issue any show cause notice to the petitioner herein as to why the proposed action should not be taken.

In the considered opinion of this Court, cancellation of building permit is undoubtedly a punitive action and the respondent Corporation is obligated to adhere to the principles of natural justice. It is settled proposition of law that any action, which has civil consequences, must necessarily be preceded by a notice and opportunity to the persons likely to be affected by such action. By way of the impugned notice, while revoking the building permission, the Corporation granted three days' time to the applicant for submitting necessary documents. Instead of doing so, the Corporation should have issued a show cause notice to the petitioner herein and afforded a reasonable opportunity to submit explanation and the necessary documents in support of his right and the Corporation failed to do so. In the considered opinion of this Court, the said action of the respondent Corporation is in patent violation of the principles of natural justice and on that ground alone, the Writ Petition is liable to be allowed.

Accordingly, the Writ Petition is allowed, setting aside the impugned notice bearing No.PC/ 5/ 347/ DC/ C12/ GHMC/ 2018, dated 24.05.2018, issued by the respondent Corporation. However, it is open

for the respondent Corporation to issue a show cause notice to the petitioner calling for his explanation and to pass appropriate orders in accordance with law.

Miscellaneous Petitions pending consideration, if any, in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE A. V. SESA SAI

03.07.2018
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