

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

WRIT PETITION No.23794 of 2018

ORDER:

Heard the learned Counsel for the petitioner and Sri N.Praveen Kumar, learned Standing Counsel for respondent-Municipality.

According to the petitioner, he purchased a plot admeasuring 128 Sq.Yards., in Ward No.3, Block No.8 at Ravindra Nagar, Mahabubnagar, by way of a registered sale deed bearing document No.3001/1994 and constructed a house by obtaining construction permission from respondents No.2 and 3 vide proceedings No.G1/BV/4379/110/1994, dated 08.12.1994 and completed the construction in 1995 itself. On the complaint made by the 4th respondent herein, the Commissioner, Mahabubnagar Municipality, issued notice bearing No.G1/TPBO/03/MBNR/2018, dated 24.01.2018, asking the petitioner to furnish the ownership and link documents along with permission copy within seven days. In response to the said notice, on 02.02.2018, the petitioner submitted an explanation enclosing copy of the permission granted and the registration documents. Vide proceedings U.C.No.15/MBNR/2018, dated 05.06.2018, the respondent-Municipal Commissioner directed the petitioner herein to remove the constructions made by the petitioner herein. The

legal sustainability of the said proceedings is under challenge in the present Writ Petition.

According to the learned Counsel for the petitioner, the impugned Order passed by the respondent-Municipal Commissioner is highly illegal, arbitrary and opposed to the very spirit and object of the provisions of the Telangana Municipalities Act, 1965 and Rules framed there-under. It is further submitted by the learned Counsel that the impugned Order is a non-speaking order and completely bereft of any reasons and the total non-consideration of the documents filed by the petitioner herein along with explanation is very much apparent on the face of the impugned order.

On the other hand, it is submitted by the learned Standing Counsel that there is no illegality nor there exists any infirmity in the impugned order and as such, the same does not require any judicial review under Article 226 of the Constitution of India.

Having called for the explanation on the complaint said to have been made by the 4th respondent and having acknowledged the explanation and the documents enclosed with the same, there is no justification on the part of the respondent-Municipal Commissioner in not considering the said documents. On this ground alone, the Writ Petition is liable to be allowed.

Accordingly, the Writ Petition is allowed, setting aside the impugned notice U.C.No.15/MBNR/2018, dated

05.07.2018, and the matter is remanded to the respondent-Municipal Commissioner for fresh consideration of the issue and for passing appropriate orders after considering the explanation and the documents enclosed therewith and after giving opportunity to all the stakeholders.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed. No costs.

11th July. 2018
smr

A.V.SESHA SAI,J

