

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

W.P.No.25298 of 2018

ORDER:

Heard the learned counsel for the petitioner and Sri S.Laxminarayana Reddy, learned Standing Counsel for the respondent Municipal Corporation.

2. A notice bearing UCBA No.1086/1263/B/23/DNS/2018, dated 05.07.2018, issued by the first respondent Corporation under the provisions of Section 636 of HMC Act, 1955 read with Section 7 of Visakhapatnam Municipal Corporation Act, 1979 is under challenge in the present writ petition.

3.. According to the petitioner, it is a firm registered under the Indian Partnership Act and is in the construction field and it entered into a Development Agreement with Mamidi Appa Rao and his family members for the purpose of developing the site admeasuring 806 Sq yards at Door No.29-13-33, Block No.42, T.S.No.1457/2 of Allipuram, Lalita Colony, Daba Gardens, Visakhapatnam. It is further stated that vide Permits dated 08.06.2017 and 03.11.2017 the respondent Corporation granted permission for construction of building in favour of the petitioner herein. Now, by way of the impugned notice issued under Section 636 of the HMC Act, 1955, the Municipal Corporation directed the petitioner herein to remove the alleged deviated portions in all round the setbacks as per the sanctioned plan within 24 hours.

4. It is the contention of the learned counsel for the petitioner that the notice dated 17.04.2018 referred to in the impugned notice issued under Section 636 of the GHMC Act was never served on the petitioner herein and

as such the impugned action on the part of the respondent Municipal Corporation is highly illegal, arbitrary and violative of principles of natural justice.

4. When the matter is taken up, a provisional notice dated 17.04.2018 issued by the respondent Corporation under Section 452 of the HMC Act asking the petitioner to show-cause as to why necessary action should not be taken while pointing out the alleged deviations, is placed on record by the learned Standing Counsel for the respondent Corporation. While referring to the said notice issued under Section 452, it is submitted by the learned Standing Counsel that one Sri A.Harsha received the said notice on 18.04.2018 who is the son of the petitioner. On the other hand, it is submitted by the learned counsel for the petitioner that the said Mr.Harsha is not the son of the writ petitioner.

5. In order to have quietus for the entire problem and instead of going into the said controversy, this Court deems it appropriate to allow the writ petition by setting aside the impugned order dated 05.07.2018 and keeping it open for the petitioner herein to submit explanation to the provisional notice issued under Section 452 of the Act dated 17.04.2018, within a period of two weeks from the date of receipt of a copy of this order and if any such explanation is submitted, the same be considered and appropriate orders be passed, strictly in accordance with law.

7. Accordingly, the writ petition is allowed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:20.07.2018
grk



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



W.P.No.25298 of 2018

Dated: 20.07.2018

grk