

HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.27309 of 2018

ORDER:-

Heard learned Counsel petitioner and Sri A.Panduranga Rao, learned Standing Counsel for R.2-Municipal Corporation.

A notice bearing U.C.No._____/2018/NMC/TPS-3, dated 19/07/2018, issued by the 2nd respondent-Municipal Commissioner under Section 461 and 452 of the H.M.C.Act, 1955, is under challenge in the present Writ Petition.

The petitioner herein claims to be the absolute owner and possessor of the house site bearing D.No.327, admeasuring 266.666 Sq.Yds., bearing plot No.21, Municipal Ward No.25-2, New Military Colony, Nellore Municipal Corporation. He claims to have purchased the said property for valuable consideration from one Boddu Masthan Reddy, represented by Agreement-cum-General Power of Attorney Holder-Maram Balarami Reddy, by way of registered sale deed vide document No.5674/2016, dated 11.07.2016. It is further stated that the 2nd respondent-Corporation, after due enquiry, accorded permission for construction of Ground Floor *plus* two upper floors vide proceedings, dated 20.07.2018. It is further stated that the petitioner carried on the constructions strictly in accordance with the sanctioned plan and there is no deviation. It is alleged in the affidavit filed in support of the Writ Petition that the unofficial respondent herein having failed to get any Orders in I.A.No.147 of 2018 in O.S.No.323 of 2018 on the file of the Court of the I-Addl.Junior Civil Judge, Nellore, approached the 2nd

respondent-Municipal Corporation and made complaints and at the instance of the 3rd respondent only, the 2nd respondent issued the impugned notice. It is also stated that the petitioner herein submitted a reply so also a representation, dated 25.07.2018 in response to the said impugned notice, dated 19.07.2018.

During the course of arguments, it is submitted by the learned Counsel for the petitioner that the impugned action of the respondents is highly illegal, arbitrary and violative of Article 14 of the Constitution of India. A copy of the reply, said to have been submitted in response to the impugned show cause notice, is also filed along with the Writ Petition as material paper. It is further submitted by the learned Counsel for the petitioner that the petitioner herein may be permitted to file a detailed additional explanation to the show cause notice apart from the reply already submitted.

Having heard the learned Counsel for the petitioner and the learned Standing Counsel, as the impugned notice is only a show cause notice, issued under Sections 461 and 452 of the H.M.C.Act, 1955, this Court deems it appropriate to dispose of the Writ Petition, leaving it open for the petitioner herein to submit additional explanation, if any, with complete details, within a period of one week from the date of receipt of a copy of this Order. If any such explanation is filed within the time stipulated above, the same be considered and appropriate orders be passed, strictly in accordance with law. Till the said exercise attains finality, *status quo* with regard to the subject

constructions pursuant to the impugned notice, dated 19.07.2018 shall be maintained.

Miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

A.V.Sesha Sai, J

Date:03.08.2018
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