

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

WRIT PETITON No.27803 of 2018

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development appearing for the first respondent and Sri Nimmagadda Venkateswarlu, learned Standing Counsel for Municipalities, appearing for the respondent Nos.2 and 3.

The Municipal Commissioner, Mandapeta Municipality-second respondent herein issued a provisional notice, bearing UC.No.8/2018/G1, dated 26.07.2018, under sub-Sections (1) and (2) of Section 228 of the A.P.Municipalities Act, 1965 (for brevity, 'the Act'), calling upon the petitioner herein to show cause as to why the structures indicated therein should not be removed. Responding to the said show cause notice, petitioner herein submitted an explanation on 02.07.2018. Thereafter, vide UC.No.08/2018/G1, dated 26.07.2018, the second respondent herein issued a confirmation notice, under sub-Section (3) of Section 228 of the Act, asking the petitioner herein to remove the constructions, indicated in the provisional notice. Obviously, as a consequence of the same, the second respondent issued endorsement bearing ROC.No.511/2018-G1, dated 26.07.2018, rejecting the request of the petitioner herein for re-consideration of the building plan.

A perusal of the impugned confirmation notice, dated 26.07.2018, in clear and vivid terms, discloses that, except stating that the explanation, offered by the petitioner herein, was not satisfactory, the second respondent herein did not advert to the contents of the explanation, dated 02.07.2018, submitted by the petitioner herein. Having called for the explanation and having acknowledged the same, this Court does not find any justification on the part of the second respondent herein in issuing the confirmation notices without considering the contents of the said explanation. On this ground alone, the Writ Petition is liable to be allowed.

For the aforesaid reasons, the Writ Petition is allowed, setting aside the endorsement vide ROC.No.511/2018-G1, dated 26.07.2018, and consequential notice vide UC.No.08/2018/G1, dated 26.07.2018, and the matter is remitted to the second respondent for consideration of the issue afresh after considering the contents of the explanation offered by the petitioner on 02.07.2018 and for passing appropriate orders afresh. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

A.V.SESHA SAI, J

07th August, 2018.

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