

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

W.P.No.30332 of 2018

ORDER:

Heard Sri Ganta Rama Rao, learned Senior Counsel appearing for Sri Sreenivasa Rao Velivela, learned counsel for petitioners and Sri Chatla Madhu learned Standing Counsel for 2nd respondent.

Earlier, the petitioners along with certain others approached this Court by way of filing W.P.No.24522 of 2018 and this Court disposed of the said writ petition by order dated 16.07.2018 and the order reads as follows :-

“It is submitted by the learned counsel for the petitioners that the subject shops are not located in the cellar area and they are covered by valid permissions. On the other hand, it is submitted by the learned counsel appearing for Respondent Corporation that if the petitioners are in possession of such documents to demonstrate the above situation, they are at liberty to produce the same before the 3rd respondent and if the same are in order, appropriate further action will be taken, as per law.

Recording the above said submissions, the writ petition is disposed of, keeping it open to the petitioners herein to file necessary documents in support of their claim within a period of two days from today before the 3rd respondent and if any such documents are filed, the same be verified and appropriate further action be taken as per law within a period of three days thereafter. Till then, there shall be no interference by the Respondents in respect of the shops of the petitioners herein.”

Now, by way of impugned notices dated 20.08.2018, the petitioners have been directed to remove their respective shops and further warned that the same shall be removed if they do not adhere to the said direction.

According to the learned counsel for petitioners, pursuant to the orders of this Court dated 16.07.2018 in W.P.No.24522 of 2018, the petitioners herein submitted an explanation/representation dated 17.07.2018, enclosing copies of sanctioned plan and photographs of

the basement floor and cellar floor to show the nature of usage as per the sanctioned plan. It is further stated that though the petitioners herein submitted the said representation/explanation by enclosing relevant documents to the respondent Corporation, without even referring to the said representation/explanation and the documents filed by the petitioners herein by respondent Corporation, issued impugned notices and the same are violative of principles of natural justice and the same are liable to be declared as illegal and arbitrary.

On the other hand, it is submitted by the learned Standing Counsel for the respondent Corporation that there is no illegality nor infirmity in the impugned notices and in the absence of the same, the impugned notices are not amenable for any judicial review and the petitioners herein are not entitled for any relief from this Court under Article 226 of the Constitution of India.

It is not in dispute that pursuant to the order of this Court in W.P.No.24522 of 2018 dated 16.07.2018, the petitioners herein submitted representation/explanation dated 17.07.2018, narrating various aspects and also enclosed copies of sanctioned plans and photographs of the basement floor and cellar floor, to demonstrate the nature of usage. Surprisingly, though the respondent Corporation received the said representation/explanation, the impugned notices do not refer to the said representation/explanation and the documents enclosed therewith.

This exercise undertaken by the respondent Corporation cannot be sustained in the eye of law.

For the above reasons, the writ petition is allowed, setting aside the notices impugned in the writ petition.

It is open for the respondents to pass fresh orders, after considering the explanation and the documents enclosed by petitioners.

Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.V.SESHA SAI, J

Date: 24.08.2018
Prv







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



W.P.No.30332 of 2018

24.08.2018

Prv