

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.11888 of 2009

O R D E R:

In this writ petition, petitioner challenges notice, dated 01.06.2009, issued by respondent directing her to remove the unauthorised building, which consists of ground floor + 1 upper floor, on the ground that the said site is earmarked for the purpose of park and playground.

Learned counsel for the petitioner submits that without giving any opportunity to the petitioner, the impugned notice was issued, as such, the right of the petitioner under Article 300-A of the Constitution of India gets affected.

On the other hand, learned Standing Counsel for the Corporation contends that inasmuch as the layout had clearly earmarked the site, over which the petitioner constructed the subject building, for the purpose of park and playground, the right vests with the Corporation and that there is nothing wrong in issuing the impugned notice directing her to remove the subject building.

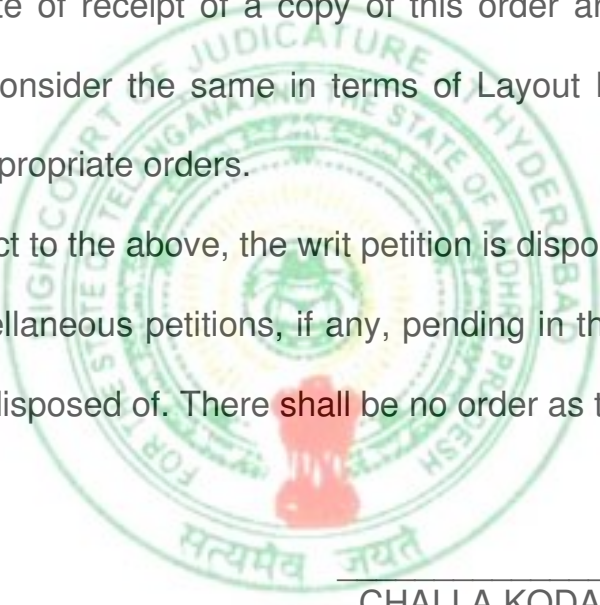
Having considered the respective submissions, the fact remains that the petitioner was not given an opportunity of hearing before issuing the impugned notice directing her to remove the subject building. At the same time, it may not be out of place to mention that in terms of the Municipal Laws, the right

on the open space earmarked in a layout for the purpose public amenities vests with the Corporation. Further, the language employed in the impugned notice does not leave any manner of doubt that there was a specific direction to the petitioner to remove the unauthorised constructions within fifteen days, which cannot be done, without issuance of prior notice.

In those circumstances and in the interests of justice, the impugned notice shall be treated as the show cause notice and the petitioner shall submit her explanation within three weeks from the date of receipt of a copy of this order and respondent No.1 shall consider the same in terms of Layout Plan No.55/71 and pass appropriate orders.

Subject to the above, the writ petition is disposed of.

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



CHALLA KODANDA RAM, J

Dt:16.07.2018

kdl

