

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

W.P.No.31896 of 2018

ORDER:

Heard the learned counsel for the petitioner and Sri Sampath Prabhakar Reddy, learned Standing Counsel for the respondent Corporation.

2. A notice bearing No.UC-03/TPS/W-20/Rkpuram/C5EZ/GHMC/2018, dated 04.09.2018, issued by the Deputy Commissioner, Circle No.5, GHMC, L.B.Nagar, Hyderabad, is under challenge in the present writ petition.

3. The respondent Corporation issued a notice bearing No.UC/TPSD/W20/R.K.PURAM/C5/EZ/GHMC/2018, dated 18.08.2018, calling upon the petitioner herein to show cause as to why the alleged unauthorized constructions shall not be removed while pointing out the following unauthorized constructions:

- 1) Erected RCC Columns up to 10 ft height for laying ground floor with deviation to sanctioned plan towards rear side.
- 2) Unauthorisedly erected RCC columns for laying the lift provision.

4. In response to the said show-cause notice issued under Sections 452 (1) and 461 (1) of GHMC Act, 1955, petitioner herein submitted an explanation on 24.08.2018. Thereafter, the Corporation issued a notice under Section 452 (2) of the HMC Act, 1955 bearing No.UC-02/TPS/W-20/R.K.PURAM/C5/EZ/GHMC/2018, dated 28.08.2018. After receipt of the said notice, petitioner herein submitted an explanation on 30.08.2018 and the same is evident through the acknowledgment made by the office of the Deputy Commissioner on 31.08.2018. By way of the impugned

notice bearing No.UC-03/TPS/W-20/Rkpuram/C5EZ/GHMC/2018, dated 04.09.2018, issued under Section 636 (1) of the HMC Act, 1955, the second respondent directed removal of the alleged unauthorized construction.

4. According to the learned counsel for the petitioner, the notice impugned in the present writ petition is highly illegal, arbitrary and unreasonable and violative of the principles of natural justice. In elaboration, it is the further submission of the learned counsel for the petitioner that though for the notice bearing No.UC-02/TPS/W-20/R.K.PURAM/C5/EZ/GHMC/2018, dated 28.08.2018 issued under Section under Section 452 (2) of the HMC Act, 1955 the petitioner submitted an elaborate explanation on 30.08.2018 (acknowledged by the Office of the Deputy Commissioner on 31.08.2018), without considering the same, the second respondent passed the impugned order under Section 636 of the HMC Act, 1955.

5. A perusal of the explanation dated 30.08.2018 submitted by the petitioner herein clearly discloses that the office of the Deputy Commissioner, Saroornagar, Circle-5, GHMC, acknowledged the said explanation on 31.08.2018. Therefore, on the ground that the said explanation was not considered, the order impugned is liable to be set aside and in the considered opinion of this Court, the same is violative of Article 14 of the Constitution of India besides being opposed to the principles of natural justice.

6. For the aforesaid reasons, the writ petition is allowed setting aside the impugned notice bearing No.UC-03/TPS/W-20/Rkpuram/C5EZ/GHMC/2018, dated 04.09.2018 and the matter is remitted to the second respondent for passing orders afresh, after considering the explanations submitted by the petitioner herein on 24.08.2018 and

30.08.2018. Till the final orders are passed and the said exercise attains finality, there shall be *status quo* with regard to the subject constructions.

As a sequel, the miscellaneous petitions, if any, shall stand disposed of.

There shall be no order as to costs.

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A.V.SESHA SAI, J

Date:05.09.2018

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W.P.No.31896 of 2018

Dated: 05.09.2018

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