

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.33350 OF 2018

ORDER:

The Notice, dated 12.09.2018, issued under Sections 402 and 405 of Hyderabad Municipal Corporation Act, 1955 (in short "HMC Act") is challenged before this Court on the simple ground of violation of the principles of natural justice.

It is the case of the petitioner that she purchased the subject house properties from one Mr. R. Koteswara Rao, vide two Registered Sale Deeds dated 12.04.1993 and 27.05.1993, who purchased the same from one Mr. Vasireddy Krishna Murthy Naidu S/o Padda Appala Naidu under two registered sale deeds dated 21.06.1990 and 13.06.1990 and the said Krishna Murthy Naidu purchased the subject property from Jubilee Hills Co-operative House Building society vide registered Sale Deed, dated 16.07.1986. It is her further contention that she does not have any idea as to in what circumstances, the respondent authorities have invoked the provisions of the HMC Act, and if a proper notice is issued, she would have submitted her explanation, which would be considered in accordance with law.

Learned counsel for the Municipal Corporation fairly concedes that the impugned notice, dated 12.09.2018, is vague, and the same was issued on account of the findings recorded in a house committee report, under which it has come to the notice that in Jubilee Hills Cooperative House Building Society, the area, which was otherwise earmarked for lung space was in fact sold and the same is in occupation of the individuals. *Prima facie*, the petitioner's occupation also was not in an approved layout, wherein the space was earmarked for park. He would also further submit that the petitioner

may treat the present notice, dated 12.09.2018, as a show cause notice and offer her explanation, which shall be considered by the respondent authorities in accordance with law.

Having considered the respective submissions, though the learned standing counsel for the respondent is fair enough to some extent in submitting that without considering the explanation to be submitted by the petitioner, no coercive action shall be taken, the very course suggested by him is not acceptable. A party to answer the notice should have a clear idea as to why the show cause notice is issued to him / her and in what matter he / she has to submit the explanation. The Notice issued to the petitioner lacks such particulars. A perusal of the impugned notice discloses that there is reference to the orders in Writ Petitions and the judgment of the Supreme Court and unless the same are furnished to the petitioner, there would be no meaningful explanation that could be offered by the petitioner.

In those circumstances, the impugned notice is set aside with the consent of both the parties, giving liberty to the municipal corporation to issue a fresh show cause notice to the petitioner, which shall be answered by her within the time stipulated, and the same shall be considered by the respondent authorities and appropriate orders be passed in accordance with law.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

CHALLA KODANDA RAM, J

Dated:14.09.2018
Ssv