

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6038 of 2019

ORDER:

The petitioner submitted an application to the 2nd respondent on 24.11.2018 requesting to grant permission for constructing a house in plot No.61, Survey No.216 to 222 & 298, situated at Cherlapally, Kapra. As no orders were passed on his application, the petitioner, after waiting for the statutory period as mandated under the Greater Hyderabad Municipal Corporation (GHMC) Act, 1955, in anticipation of permission from the authorities, constructed a wall to protect the construction material lying in the open premises. While so, the 2nd respondent issued a Show Cause notice under Section 452(1) and 461(1) of the GHMC Act, seeking explanation from the petitioner as to why the unauthorised construction should not be pulled down. The petitioner asserts that she submitted her explanation on 18.03.2019. Thereafter, the petitioner was surprised to receive the impugned notice dated 14.03.2019 issued under Section 452(2) of the GHMC Act, 1955, stating that as the petitioner has not replied to the Show Cause notice dated 25.02.2019, further action as per Section 636 of the GHMC Act, would be initiated. Aggrieved thereby, the petitioner filed this writ petition.

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

Learned counsel for the petitioner submits that the petitioner submitted a reply dated 18.03.2019 to the Show Cause notice dated 25.02.2019 stating that he had in fact submitted an application on 24.11.2018 seeking permission for building construction and also paid an amount of Rs.10,000/- which was acknowledged vide File No.3/C1/22334/2018, however, as he had not received any reply even after lapse of three months statutory period, he proceeded

with the construction, and that too, he constructed a wall to safeguard his construction material lying in the open plot. It is also stated that the petitioner had not been intimated what deviations the petitioner has committed. Learned counsel submits that the respondents have not considered the reply submitted by the petitioner on 18.03.2019 against the earlier notice dated 25.02.2019, and therefore the impugned notice dated 14.03.2019 issued without considering the reply is arbitrary and unsustainable.

Learned Standing Counsel submits that the respondents may be directed to consider the reply submitted by the petitioner and pass appropriate orders.

Having regard to the respective submissions, as the petitioner is said to have submitted her explanation on 18.03.2019 though belatedly, in response to the show cause notice dated 25.02.2019, before taking any action subsequent to the impugned notice dated 14.03.2019 issued under Section 452(2) of the GHMC Act, the 2nd respondent shall consider the reply and pass appropriate orders on the application dated 24.11.2018 submitted by the petitioner, within a period of three weeks from the date of receipt of a copy of this order. Till such time the 2nd respondent considers the reply of the petitioner, no coercive steps shall be taken against him. Likewise, the petitioner shall also not make any further construction without obtaining permission as required under Municipal laws.

The writ petition is accordingly disposed of. No costs. Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE CHALLA KODANDA RAM

03rd April, 2019
KSM

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