

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.20907 of 2019

ORDER:

The notice issued under Sections 402 and 405 of the HMC Act, 1955, dated 18.09.2019, is challenged before this Court. The impugned notice reads as under:

"It came to the notice of the undersigned that you have constructed compound wall Buffer zone of MundiKunta, Khanamet (v), Serilingampally Mandal contrary to the provisions of HMC Act 1955 and Bye-Laws made thereunder as given below .

You have constructed compound wall in Buffer zone / FTL of MundiKunta:

Therefore, you are hereby directed to show sufficient cause by a statement in writing or by an agent duly authorized by you in this behalf why the above deviated portion / unauthorized construction of compound wall constructed in Buffer Zone / FTL shall not be removed, altered or pulled down. Further you hereby directed to remove the unauthorized construction within (24) hrs from the date of receipt of this notice failing which further action will be taken to remove unauthorized construction and expenses thereof will be recovered from you."

While directing the petitioner-Association to submit explanation, the 3rd respondent simultaneously conveyed a decision to the extent that the petitioner had made unauthorized construction, and directed to remove the same within 24 hours. There cannot be a notice calling for explanation while simultaneously making an order, even without there being an explanation.

In that view of the matter, taking into consideration of the submission made by the learned Standing Counsel, the notice dated 18.09.2019 shall be treated as a Show Cause notice and the petitioner shall submit explanation within a period of ten (10) days from today, which shall be considered by the respondent authorities and make a reasoned order, in accordance with law. If

need be, the petitioner shall be given an opportunity of hearing to enable to place necessary material before the 3rd respondent. Till such time a reasoned order is made by considering the explanation, no demolition shall be undertaken.

With the above direction, the writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, shall stand closed.

23rd September, 2019

KSM

CHALLA KODANDA RAM, J



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