

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.22140 of 2019

ORDER:

The Notice dated 30.09.2019 issued by the 3rd respondent, under Section 636 of the HMC Act, 1955, is challenged before this Court.

Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development for respondent No.1, and Smt. Pingali Lakshmi, learned Standing Counsel for GWMC.

One of the principal grounds on which the petitioner challenges the Notice dated 30.09.2019 is that in spite of the fact that the petitioner had informed the respondent that he had sold the subject property and also enclosed the sale deed, and that he is no longer the owner of the subject property, the respondent authority has made the impugned order on the petitioner, ignoring the fact that the affected party would be somebody else. Learned counsel for the petitioner would further assert that if at all any notice could be given, the notice could be given to the present occupant of the subject property, and not to the petitioner.

Learned Standing Counsel vehemently opposes the writ petition by contending that if the petitioner had sold away the property, it would not be for the petitioner to contest the matter and it is for the actual party who is affected by the impugned notice to contest the matter.

Having regard to the respective submissions, even from the very impugned notice, the 3rd respondent has put on notice the petitioner who has sold away the property in 2017 itself. Even if the layout was unapproved, and the plot sold by the petitioner was in such unapproved layout, and there is any illegal construction being made in the plot, there is a duty cast on the respondent authority to verify the owner/occupant of the plot before issuing preliminary notice invoking Section 452 and 461 of the

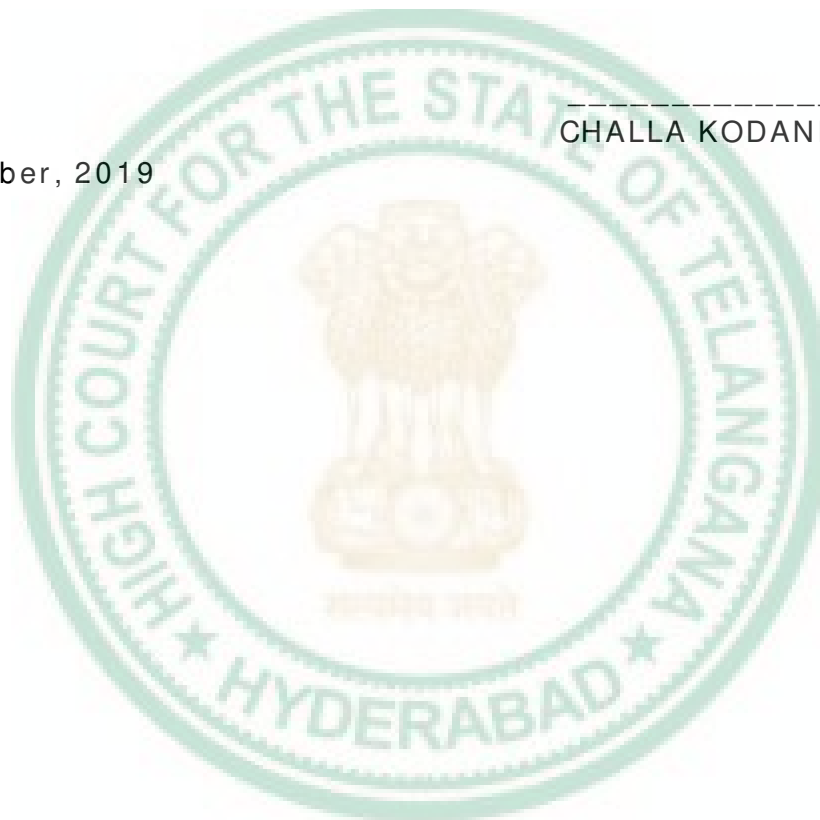
HMC Act. In the present case, the 3rd respondent having failed to do the same, passed the final order invoking Section 636 of the Act, and therefore the impugned notice dated 30.09.2019 is unsustainable, and accordingly the same is set aside. However, learned Standing Counsel undertakes to inform the respondent authority not to undertake demolition as the addressee is not the affected party and the present owner/occupant is different from the addressee.

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

01st October, 2019

KSM

CHALLA KODANDA RAM, J



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