

HIGH COURT FOR THE STATE OF TELANGANA

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND**

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT APPEAL No.791 of 2019

Date: 21.10.2019

Between:

Bandi Madhu Kumar

... Appellant

and

Osuri Vasu Jonathan, and others

...Respondents

Counsel for the appellant : Mr. Srinivas Rao Bodduluri

Counsel for the respondent No.1: Mr. L. Ravi Kumar

Counsel for the respondent No.2: GP for Municipal Administration

Counsel for the respondent Nos.3 and 4: SC for GHMC

The Court made the following:

JUDGMENT: *(per the Hon'ble the Chief Justice Sri Raghendra Singh Chauhan)*

Mr. Bandi Madhu Kumar, the appellant, has challenged the legality of the order dated 18.09.2019, passed by a learned Single Judge, in I.A.No.1 of 2019 in W.P.No.20153 of 2019, whereby the learned Single Judge has passed the following order as under:

"In view of the above and as the petitioner is a party to the proceedings in O.S.No.181 of 2019, he shall place on record before the learned Junior Civil Judge the material documents and ensure that violations which have been committed by respondent No.4 are taken into consideration before passing any orders in I.A.No.1342 of 2019. There is no reason for this Court to believe that the learned Junior Civil Judge would not take into consideration the violations committed by respondent No.4 before passing orders in the above said I.A. Further, as notice has already been issued to respondent No.4, the respondent authorities shall ensure that the construction being made by respondent No.4 is strictly in accordance with the sanctioned plan and if such construction is in violation of the sanctioned plan, the same shall be removed by following due process of law."

The learned counsel for the appellant submits that the appellant is the respondent No.4 before the learned Single Judge. Despite the fact that notice may have been issued by the learned Single Judge, the same was not served upon the respondent No.4. Therefore, the impugned order has been passed without giving an opportunity of hearing to the respondent No.4 to place his case before the learned Single Judge. According to the learned counsel, the passing of the impugned order is clearly in violation of the principles of natural justice.

The learned counsel for the respondents agrees that the notice was not served, and the respondent No.4 went unrepresented before the learned Single Judge.

Heard the learned counsel for the parties and perused the impugned order.

Needless to say that an adverse order cannot be passed without giving an opportunity of hearing to the party against whom the adverse order is being passed.

Therefore, this Court has no other option but to set aside the impugned order dated 18.09.2019, and to remand the case to the learned Single Judge. The parties are directed to place their submissions before the learned Single Judge on 28.10.2019. The learned Single Judge is requested to decide the case within a period of one week, if possible. Meanwhile, the respondent No.4 is restrained from raising any further construction during the pendency of the writ petition before the learned Single Judge. It is clarified that the order passed by this Court does not preclude the learned Civil Court from passing necessary orders.

With these directions, this appeal stands disposed of. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(A. ABHISHEK REDDY, J)

Date: 21.10.2019

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