

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.24210 of 2019

ORDER:

It is a case where the irregularity is writ large on the face of the record. It is the assertion of the petitioner in the writ affidavit that building permission in Survey Nos.462/A/1, 462/A/2, 462/B/1, 462/B/2, 462/C/1, 462/C/2, 462/D/1, 462/D/2, 462/E/1 and 462/E/2 of Jangaon Town, was granted in the month of September, 2018, and the building was constructed pursuant to the sanction. While so, petitioner was visited with a notice dated 01.11.2019 (served on 02.11.2019), simultaneously with Proceedings in R.O.C.No.G1/897/2019 dated 01.11.2019, directing him to show cause within seven days from the date of notice, as to why the permission granted for construction of building in favour of the petitioner should not be cancelled. Yet another proceedings dated 02.11.2019 was also passed directing seizure of petitioner's property based on the orders dated 01.11.2019.

Heard learned counsel for the petitioner, and the learned Government Pleader for 2nd respondent-Municipality.

The facts disclose that the allegation in the Show Cause notice is that the construction made by the petitioner falls within the Buffer Zone and Full Tank Level (FTL) of Rangappa Cheruvu, as informed by the Executive Engineer (IB) Division, Jangaon, vide proceedings dated 31.10.2019. Whereas, it is the assertion of the petitioner that the Executive Engineer proceedings dated 31.10.2019 were not issued to him, and he was not put on notice. It is also his assertion that as far back as 28.03.2017, the Revenue Divisional Officer (RDO) had specifically informed that the total extent of Survey No.462 is Ac.10-25 guntas, and the extent of land falling under Buffer

Zone/FTL is Ac.4-37 guntas, and the petitioner's property falls outside the ambit of Ac.4-37 guntas which is Buffer Zone/FTL Zone.

As can be seen from the narration, there is gross violation in issuing Show Cause notice dated 01.11.2019, and further the final order dated 02.11.2019 passed was in utter violation of principles of natural justice, apart from not making it available to the petitioner, the basis for the conclusion arrived by the 2nd respondent. The entire action appears to have been made in post-haste.

In those circumstances, the impugned order dated 02.11.2019 seizing the property of the petitioner is set aside. As the petitioner has already been issued Show Cause notice dated 01.11.2019 (served 02.11.2019), the petitioner shall submit his explanation to the Show Cause notice within a period of two weeks from the date of receipt of a copy of this order. On furnishing the explanation, the same shall be considered by the 2nd respondent, and necessary orders be passed on merits by dealing with all the objections of the petitioner, in accordance with law. It is needless to mention that the petitioner shall forthwith be furnished with the communication dated 31.10.2019 alleged to have been issued by P. Shankar Rao, Executive Engineer, I.B. Division, Jangaon.

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

CHALLA KODANDA RAM, J

05th November, 2019
KSM

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