

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.25086 OF 2019

O R D E R

Aggrieved by the notice vide No. UC/3/12/TPS/C12/W10/2018 dated 17.1.2019 issued by the 3rd respondent – Greater Hyderabad Municipal Corporation represented by its Deputy Commissioner, Circle No.12, under Section 636 of the Hyderabad Municipal Corporation Act, 1955, in directing the petitioner to remove the unauthorized construction of cellar floor at H.No.10-3-12/C, situated at Mehdiapatnam, Hyderabad, the present writ petition is filed.

Learned counsel for the petitioner submits that before issuing the notice for removal of the alleged unauthorized structures, the 3rd respondent has not issued any notice and it amounts to violation of principles of natural justice. He submits that petitioner is willing to close the cellar portion, which is alleged to be unauthorized, and he will give an undertaking to the authorities to the said effect.

Heard learned Government Pleader for Municipal Administration and Urban Development.

Sri N.Ashok Kumar, learned Standing Counsel for respondents 2 and 3, on instructions, submits that when the petitioner was sought to be served with notice prior to issuance of impugned notice, the premises was found to be locked and it was served at the site to a person who was present there, and stated to be authorized by the petitioner. Therefore, it amounts to service of notice and as the petitioner failed to respond, impugned notice has been issued for removal of unauthorized construction.

Learned counsel for the petitioner seriously disputed the above submission of the learned Standing Counsel with regard to service of notice.

Since the petitioner is willing to give undertaking to the authorities that he will not use the cellar portion and close the same, which is stated to be unauthorized construction, and having regard to the facts and circumstances of the case, without expressing any opinion on merits, writ petition is disposed of directing that the impugned notice issued under Section 636 of the Act, shall be treated as show cause notice, and the petitioner is permitted to submit his explanation, within a period of four weeks from today, and considering such explanation, the 3rd respondent is directed to take further action in accordance with law. Till then, no coercive steps shall be taken.

It is made clear that if the petitioner fails to file explanation within the period allowed by this court, the interim arrangement made not to take any coercive steps, shall stand automatically vacated, and the respondent No.3 is at liberty to take further action in accordance with law in pursuance of the impugned notice for removal of the illegal construction of cell floor at H.No.10-3-12/C, situated at Mehdipatnam, Hyderabad, and recover the expenses from the petitioner.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY,J

DATE:19—11—2019

Note:

Issue C.C. by tomorrow.

B/O
AVS