

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 25522 OF 2019

ORDER:

This writ petition is filed challenging the speaking order passed by the 4th respondent vide No.UC/179/TPS/Circle.21/SLPZ/GHMC/2019, dated 13.11.2019, whereby the father of the petitioner was directed to remove the Liquor Shop situated in the ground floor of building bearing No.2-61/40, situated at Guttala Begumpet Village, Megha Hills Society, Madhapur, Hyderabad; and to demolish unauthorized building consists of Ground + 2 Upper floors and columns in third floor, within 24 hours, without issuing notice under Section 451(1) and 452(2) of the Hyderabad Municipal Corporation Act, 1955 (*for short 'the Act'*); and also to declare the action of the respondents in acquiring the land of the petitioner admeasuring 60 square yards from out of 230 Sq.Yards.

Sri Sampath Prabhakar Reddy, Learned Standing Counsel for respondents 2 to 5 submits that though petitioner was issued notices under Section 452(1) and 452(2) of the Act he proceeded with the construction and as such ultimately notice under Section 636 of the Act, was issued to the petitioner on 07.05.2019, inspite of the same, the petitioner proceeded with the construction and as such respondents have demolished part of the structure. He further submits that though this Court passed order in IA.No.1 of 2019 in WP.No.11168 of 2019,

dt.10.06.2019, directing the petitioner herein who is one of the unofficial respondents in that writ petition, not to make any further construction in the subject property, the petitioner went on making construction and completed the building in violation of the said orders. He further submits that petitioner has not obtained any Occupancy Certificate as on today and he has not obtained any building permission, as such, the impugned order is passed on the complaint of Megha Hills Welfare Society. He also submits that the petitioner has not made the said society, who is complainant, as party in this writ petition; and that petitioner himself filed copies of the notices issued under Section 452(1) and 452 (2) and also 636 of the Act and in view of the said notices, it cannot be said that the respondents have not followed due process of law.

But the learned Counsel for the petitioner states that the said notices were served on the petitioner's father but not on the petitioner.

It is to be seen that the writ petition is liable to be dismissed on the ground that the Megha Hills Welfare Society at whose instance the impugned order is passed, is not made as party to this writ petition and more so admittedly notices were served on the father of the petitioner. Though the learned counsel for the petitioner states that the notices were served on petitioner's father but not on the writ petitioner, in the writ affidavit such plea is not taken; and that it is not stated in the writ affidavit that the father of the petitioner has not informed the

petitioner about the service of notices or the father and son have any differences. Facts as stated by the learned Standing Counsel also disclose that petitioner is making construction in violation of the orders passed by this Court order in IA.No.1 of 2019 in WP.No.11168 of 2019, that too after issuance of final notice under Section 636 of the Act. A perusal of notices issued under Section 452(1) and 452(2) and 636 of the Act goes to show that the respondents have issued appropriate notices for taking action. Hence it is not fit case where this Court should exercise the extra ordinary equitable jurisdiction under Article 226 of the Constitution India.

Accordingly, the writ petition is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

28.11.2019

t k.

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY



WRIT PETITION No. 25522 of 2019

28.11.2019

tk