

HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.25846 of 2019

ORDER:

This writ petition is filed challenging the notice dated 16.11.2019 issued by the 2nd respondent under Section 452 (2) of GHMC Act, 1955.

2. Learned counsel for the petitioner submits that the said notice was issued without following due procedure and the basis of issuance of said notice is notice dated 30.10.2019, which was issued under Section 452(1) and 461(1) of the Act, but the same is not addressed to the petitioner. He also submits that the petitioner made an application for building permission on 31.07.2019 and as there is no reply they erected the shed and later proceedings dated 25.10.2019 was issued stating the plans and proposals submitted by the petitioner are unapproved and asked the petitioner not to commence any type of construction and he also submits that the petitioner approached the respondent office and complied with the objections raised by the respondents stating that the land grabbing case filed by the lessor of the petitioner was allowed and the subject lands were included under Section 22-A of the Registration Act. He also submits that the writ petition filed by the lessor of the petitioner was allowed, but in spite of the same, impugned notice was issued.

3. On the other hand, Sri Sampath Prabhakar Reddy, learned Standing Counsel for GHMC submits that the particulars of the person who is constructing was not informed to the respondents, as such notice was issued without naming the owner and occupier.

4. It has to be seen that the application was filed by the petitioner on 31.07.2019 and the same is evident from the proceedings dated 25.10.2019 and in his application, the petitioner has given the name. As such, the version of the respondents that they are not aware of the person who is undertaking construction cannot be accepted, having themselves issued notice to the petitioner vide proceedings dated 25.10.2019.

5. In view of the above, it is unknown why the respondents have not responded till 25.10.2019 on the application made by the petitioner on 31.07.2019.

6. Learned counsel for the petitioner submits that the petitioner made construction by giving set backs and there are no deviations and only a part of the shed was erected.

7. In view of the above facts and circumstances, the issuance of the impugned notice is without application of mind and the same is set aside and since the petitioner already submitted an explanation to the proceedings dated 25.10.2019 by submitting necessary documents, the same shall be examined after giving opportunity to the petitioner.

8. Accordingly, this Writ Petition is allowed. However, this will not preclude the respondent authorities from taking any action if there is violation in the construction by issuing appropriate notice. No costs.

Miscellaneous petitions, if any, shall stand closed.

A. RAJASHEKER REDDY, J

Date: 22.11.2019
ska