

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.26953 OF 2019

O R D E R

The case of the petitioner is that she is the owner and possessor of the subject land by virtue of the registered sale deed, and has made construction of a residential house by obtaining necessary permission from Gram Panchayat. The grievance of the petitioner is that without using any prior notice, the 2nd respondent – Hyderabad Metropolitan Development Authority, issued the impugned notice dated 29.11.2019 to straightway remove the structures in the subject property within a period of seven days. Hence, aggrieved by the said notice, the present writ petition is filed.

Learned counsel for the petitioner submits that in the impugned notice, the name of the addressee is not mentioned and it is as vague as can be. He submits that petitioner after obtaining necessary permissions, made constructions, leaving 15 mts. set back from the outer edge of the road and, therefore, petitioner is not required to remove the structures. He submits that without issuing any prior notice, the impugned notice has been issued to remove the structures, and this amounts to denial of opportunity, and violates principles of natural justice.

On the other hand, Sri Y.Rama Rao, learned Standing Counsel for 2nd respondent – HMDA, on instructions submits that as per G.O.Ms.No.470, MA and UD Department dated 09.07.2008, all the property owners abutting the outer ring road, shall leave 15mts space from the outer edge of the road, but the petitioner has not left the said set back and erected structure in the buffer zone along the outer ring road and hence the impugned notice has been issued, and hence no exception can be taken.

In this case, perusal of the impugned notice shows that the name of the petitioner is not mentioned, and only the plot numbers are mentioned. But, however, as the petitioner claims to be the owner and possessor of the subject

land, filed the present writ petition. Further, a reading of the impugned notice goes to show that no prior notice has been issued to the petitioner providing opportunity, and straightaway the structures were directed to be removed within seven days, holding that they are illegal. The case of the petitioner is that she has left required set back, and made constructions after obtaining necessary permission. In these circumstances, not providing opportunity to the petitioner, amounts to violation of principles of natural justice.

Learned Standing Counsel for the 2nd respondent submits that the impugned notice may be treated as show cause notice and the petitioner may be given opportunity to file her explanation.

In view of the facts and circumstances of the case, the writ petition is disposed of, directing that the impugned notice dated 29.11.2019 vide U/c.No.21/HMDA/PIg/2019, shall be treated as show cause notice, and it is open for the petitioner to file explanation within a period of one week from today, and on receipt of such explanation, the 2nd respondent shall consider the said explanation and after affording opportunity of hearing, shall take decision in accordance with law, and communicate the same to the petitioner. Till then, the 2nd respondent shall not take any coercive steps in pursuance of the impugned notice.

It is made clear that in case the petitioner fails to file explanation within the above time allowed by this court, it is open for the 2nd respondent to take appropriate action in accordance with law in terms of the impugned notice dated 29.11.2019.

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

A.RAJASHEKER REDDY,J

DATE:04—12—2019

Note: Issue C.C. by tomorrow.

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AVS