

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

W.P.NO.27147 OF 2019

O R D E R

Petitioner claims that, on obtaining no objection from the owner of the subject land, and also after obtaining necessary permission from the local body i.e., Gram Panchyat, he erected uni-pole in the subject land, for the purpose of displaying advertisements. The respondent – HMDA, represented by its Managing Director, issued notice dated 29.11.2019 to the owner of the property, for removal of the said structure within a period of seven days. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner submits that the provisions referred to in the impugned notice, have no statutory basis, and hence without any authority of law, the respondent is not justified in interfering with the lawful activity of the petitioner. He submits that petitioner has obtained necessary permissions from the Gram Panchayat, and erected the said structure. Therefore, without issuing any prior notice, respondent is not justified in straightaway directing for the removal the said structure, and this amounts to violation of principles of natural justice. Learned counsel further submits that petitioner has filed explanation on 29.11.2019, but without considering the same in proper perspective, the authorities of the respondent, are resorting for removal of the structure in question.

On the other hand, Sri Y.Rama Rao, learned Standing Counsel for the respondent HMDA, submits that as per the regulations made under G.O.Ms.No.470 dated 09.07.2008, read with amendment made under G.O.Ms.No.440 dated 26.10.2013, all properties abutting the outer right road shall mandatory have an open buffer i.e., minimum building set back of 15 mts. from the outer ring road. He submits that as the structure

in question, is within 15 mts. of buffer zone, impugned notice has been issued, and hence no exception can be taken.

In this case it is to be seen that petitioner claims to have filed explanation on 29.11.2019 to the impugned notice. In view of the same, it would be suffice if the respondent is directed to consider the said explanation and take appropriate action in accordance with law.

Learned counsel for the petitioner submits that petitioner intends to file additional explanation and hence may be permitted to do the same.

Having regard to the facts and circumstances of the case, without expressing any opinion on merits, writ petition is disposed of, leaving it open to the petitioner to file additional explanation within a period of two weeks from today.

On receipt of such explanation, the respondent shall consider the same, and after giving opportunity of hearing, shall pass appropriate orders in accordance with law, and communicate the same to the petitioner.

Till such orders are passed, no coercive steps shall be taken.

It is made clear that if the petitioner fails to file additional explanation within the time allowed by this court, it is open for the respondent to consider the explanation, which is already stated to have been filed, and pass appropriate orders in accordance with law.

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

A.RAJASHEKER REDDY,J

DATE:09—12—2019
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