

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.27504 of 2019

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“For the reasons stated in the accompanying affidavit it is therefore prayed that this Hon’ble Court may be pleased to issue a Writ, Order or Direction, more particularly a Writ of Mandamus declaring the action of the 3rd respondent in issuing the notice vide Proceedings Roc.No.CNo.2/A2/22077/2019, dated -09-2019, which was received by the petitioner on 07.12.2019 in proposing to cancel the H.No.35-2-464 allotted/assessed in favour of the petitioner just basing on the alleged objection petition filed by the 4th respondent and deciding the title of the parties even though the civil suit filed by the petitioner is pending before the competent civil court as illegal, arbitrary, unjust and abuse of process of law and contrary to the provisions of Municipality Act and set aside the notice issued by the 3rd respondent vide Proceedings Roc.No.CNo.2/A2/22077/2019, dated -09-2019, in the interest of justice and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

2. Heard Sri S.Surender Reddy, learned counsel appearing for the petitioner, learned Government Pleader for Municipal Administration & Urban Development appearing for the 1st respondent and Smt. Pingali Laxmi, learned standing counsel appearing for respondents 2 & 3. Perused the material available on record.

3. It is the case of the petitioner that at the behest of the 4th respondent, the official respondents are initiating steps to dispossess the petitioner under one pretext or the other. In this regard, earlier also when the official respondents have initiated steps to remove the temporary erection of the tin shed of the petitioner, the petitioner was constrained to file W.P.No.22791 of 2019 before this Court and the same was disposed of on 18.10.2019 by directing the respondents to follow the procedure prescribed under Section 636 of the GHMC Act, 1955, before undertaking the demolition of the structure. That apart, when the official respondents did not stop their attitude, the petitioner was again constrained to file O.S.No.585 of 2019, on the file of the VII Additional Junior Civil Judge, at Warangal, and obtained ad-interim injunction on 12.09.2019 in I.A.No.8934 of 2019 and the same is in force. Now presently, the official respondents have issued a notice by way of post, which did not contain any date and signature and the same was received by the petitioner on 07.12.2019, wherein it is stated in the said notice that the petitioner is called for an explanation within a period of three days from the date of receipt of the said notice as to why the Assessment No.35-2-464 made in his favour should not be cancelled, failing which it will be presumed that he has no explanation to offer and no valid documents to submit claiming the above open plot.

4. However, learned counsel for the petitioner submits that the petitioner has submitted his explanation, dated 10.12.2019, to the above said impugned undated notice. He further submits that the entire action is at the behest of the 4th respondent and impugned notice is issued upon the objection petition of Smt. Mekala Lavanya, dated 06.09.2019, who is the 4th respondent herein.

5. Smt. Pingali Laxmi, learned standing counsel for respondents 2 & 3, submits that the undated notice, which is issued is computer generated and no signature is required. She further submits that the official respondents would examine the explanation submitted by the petitioner, dated 10.12.2019, and appropriate orders would be passed.

6. When the matter is of a serious nature affecting the rights construed upon the citizen under the Constitution of India, wherein his Assessment Number is subjected to cancellation upon the complaint of third parties, the respondent officer, without verifying the correctness in the contentions, is not supposed to pass any orders in a casual manner.

7. Hence, the Writ Petition is disposed of directing respondents 1 to 3 to examine the records and after hearing

both sides, pass appropriate orders, in accordance with law.

No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

T. AMARNATH GOUD, J

Date: 11th December, 2019

Note: Issue C.C. in two (02) days.

(B/o.)
KL

