

THE HONOURABLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.2891 of 2020

ORDER:

Heard learned counsel for the petitioner as well as learned Standing Counsel appearing for the respondents.

2. The prayer sought in the writ petition is as under:

“...to issue a Writ, order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in issuing the Notice No.28/ACP/TPS/C24/GHMC/2020, dated 4.02.2020 under Section 405 of HMC Act 1955 (un served) directing the petitioner to remove construction of the petitioner house bearing H.No.4-32-41/130/9/A, Sy.No.107 to 109, Aliwyn Colony, Kukatpally, Hyderabad, within 24 hours from the date of receipt of the notice is illegal, arbitrary and against the principles of natural justice and also violative of Article 14, 19, 21 and 300-A of Constitution of India and contrary to the provisions of the HMC Act by setting aside the same and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioner house property bearing H.No.4-32-41/130/9/A, Sy.No.107 to 109, Allwyn Colony, Kukatpally, Hyderabad without following due process of law in the interest of justice and to pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

3. The basic grievance of the petitioner herein is that before issuing the mandate notice, the Corporation have not issued any show-cause notice intimating the violations under the statute.

4. Learned Standing Counsel, on instructions, fairly submitted that prior to issuance of the impugned notice, no show-cause notice/prior notice is issued. He further submitted that the impugned notice may be treated as a show-cause notice and the petitioner may be directed to submit his explanation.

5. Having heard both the counsel and in the light of the material placed on record, this Court is of the opinion that the impugned notice

issued under Section 405 of the H.M.C.Act, 1955, vide Notice No.28/ACP/TPS/C24/KZ/GHMC/2020, dated 04.02.2020, is not sustainable. However, the petitioner is directed to submit an explanation to the impugned notice, dated 04.02.2020, treating it as a show-cause notice, within two weeks from the date of receipt of a copy of this order. Thereupon, the respondents are directed to consider the same and pass appropriate orders, as per law, within three weeks thereafter.

6. With the above directions, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

18th February 2020

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P. KESHAVA RAO, J

