

THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.3042 OF 2020

ORDER:

Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader appearing for the Municipal Administration.

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

'For the reasons stated in the accompanying affidavit, it is most humbly prayed that this Hon'ble Court may be pleased to issue a writ, order or direction, more particularly one in the nature of 'Writ of Mandamus':

a. To declare the action of the 2nd respondent in levying the impugned penalty of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) against the petitioner, without issuing any notice and without any reasoned order, to be illegal, arbitrary, unjust and violative of Principles of Natural Justice;

b. To set-aside the impugned order to be illegal, arbitrary, unjust and in violation of Principles of Natural Justice;

c. and to pass such other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

3. Learned counsel appearing for the petitioner submits that prior to imposition of Rs.25,00,000/- towards penalty, that too in showing the website, no prior notice has been issued to the petitioner as to what are the violations for which the penalties are imposed. Learned counsel also brought to the notice of this Court Section 38(2) of the Real Estate (Regulation and Development) Act, 2016 (for short, 'the Act'), which contemplates that the authorities shall be guided by the principles of natural justice and subject to the other provisions of the Act and the Rules

made thereunder, the authorities shall have power to regulate its own procedure.

4. On the query raised by the Court, the learned Government Pleader fairly submits that no prior notice has been issued before imposition of the said penalty. Therefore, the action of the respondents in demanding Rs.25,00,000/- towards penalty without issuing any prior notice is arbitrary and amounts to violation of principles of natural justice.

5. Therefore, the second respondent is directed to issue a notice in compliance with the provisions of the Act intimating the petitioner regarding the violations and the penalties imposed. After receiving an explanation, the second respondent is directed to pass appropriate orders. Till such time, no coercive steps should be taken against the petitioner. It is needless to mention that the entire exercise has to be completed within a period of four weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE P.KESHAVA RAO

Date: 20.02.2020

PGS