

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

THE HON'BLE SRI JUSTICE B KRISHNA MOHAN

WRIT PETITION No.16525 of 2023

Between:

Smt. Lotti Pavani, W/o. Yogeshwara Rao,
aged about 35 years, Occ: Housewife,
R/o.D.No.16-5-2/2, Srisainaveedhi,
Hayatinagar, Srikakulam.

.... Petitioner

And

The State of Andhra Pradesh, Rep by
its Principal Secretary, Revenue
Department, Velagapudi, Amaravathi,
Guntur District, Andhra Pradesh State
band 2 others.

....Respondents

ORDER:

Heard the learned counsel for the petitioner and the
learned Standing Counsel for the respondent Nos.2 and 3.

2. This Writ Petition is filed questioning the
provisional order, dated 26.04.2023 issued in the name of 2nd
respondent with the signature of the 3rd respondent, directing
the petitioner to remove the unauthorised constructions
within 7 days from the date of receipt of this impugned
notice.

3. The learned counsel for the petitioner submits that the petitioner was granted house construction permission under Pradhan Mantri Awas Yojana Scheme *vide* proceedings, dated 18.05.2023. According to the said scheme, up to the roof level the petitioner has to construct the house and for the balance portion under the said scheme the amount would be paid by the Government/funds would be released by the Government. When that is the case, the 3rd respondent issued the impugned notice in the name of the 2nd respondent under Section 452(1) and 461(1) r/w 428, 429 of Andhra Pradesh Municipalities Act, 1955 and under Section 89(1&2) r/w Section 82, 92(1) of APMR & UDA Act 2016 (Act 5 of 2016) stating that the petitioner unauthorisedly constructed residential house with built up area of 113.75 Sq.ft in the premises of D.No./Plat No.na, Situated at Konnaveedhi Street DCCB Colony area within the limits of Srikakulam Corporation,.

4. The learned counsel for the petitioner submits that, under Section 452 of the APMC Act, 1955, the 2nd respondent is the competent authority to issue any such impugned notice, dated 26.04.2023. But, it was signed by the 3rd respondent without there being authorisation under

Section 119 of the Act. In the similar circumstances, in W.P.No.15744 of 2020 was disposed of by this Court on 07.12.2020 giving liberty to the respondents therein to take further action, if so warranted, by issuing the notice by the competent authority.

5. On the other hand, the learned Standing Counsel, appearing for the respondent Nos.2 and 3 submits that, the impugned notice dated 26.04.2023 is issued in the name of the 2nd respondent, though signed by the 3rd respondent. The petitioner also did not give any explanation within the time stipulated in the said impugned notice, dated 26.04.2023. In reply, the learned counsel for the petitioner submits that, the petitioner has given the explanation dated 05.05.2023, but the same is not considered so far.

6. In view of the above said facts and circumstances, the respondent Nos.2 and 3 are directed to issue appropriate notice afresh, if so warranted, for the allegation of unauthorised construction against the petitioner and on such issuance of the notice, if the petitioner is aggrieved, she shall submit her explanation within the time stipulated in the proposed notice, if any, and on submission of the same, the appropriate authority concerned shall proceed with the

matter in accordance with law. For the purpose of adhering to the provisions of law and the mandatory requirements the impugned notice, dated 26.04.2023 is set aside enabling the respondent authorities to consider the case afresh, strictly in accordance with law.

7. Accordingly, the writ petition is disposed. There shall be no order as to costs.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE B KRISHNA MOHAN

10.07.2023
KMS

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KMS