

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

W.P.Nos.26272 and 23994 of 2022

COMMON ORDER:

Since both these writ petitions arise out of common issue, they are being disposed of by this common order.

2. W.P.No.26272 of 2022 is filed with the following prayer;

“to issue a writ, order or direction more particularly one in the nature of writ of certiorari call for the records and set aside the proceedings notice No.G1/490/2020(speaking Order) dated 30-05-2022 in keeping abeyance of the petitioner’s building permission of proceedings No.50340/TUKU/0167/2021 dated 30-03-2022 in respect of house No.9-137 (old H.No.7-40) admeasuring 184 sq. yards together with plinth area of 450 sq. feet at Imamguda Village, Tukuguda Municipality as illegal, arbitrary, unjust and violation of principles of natural justice”.

3. W.P.No.23994 of 2022 is filed with the following prayer;

“to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of respondent No.2 in passing the order to stop construction until further orders in proceedings Notice No.G1/490/2022 dated 23-05-2022 and threatened demolition in respect of the building construction house bearing No.9-137 admeasuring 184 sq. yds, situated at Imamguda Village, Tukuguda Municipality, Maheshwaram Mandal, Ranga Reddy District, which was duly obtained by the petitioner vide permit No.50340/TUKU/0167/2021 dated 24-03-2022 on the file of 2nd respondent Municipality as without jurisdiction, violation of principles of natural justice, arbitrary, highhanded and illegal being violative of Article 14 of the Constitution of India and contrary to the provisions of the Telangana Municipalities Act, 2019 and consequently direct the respondent authorities not to interfere in any manner including highhanded threatened demolition of construction of the petitioner’s building house bearing No.9-137 admeasuring 184 sq. yards situated

at Imamguda Village, Tukkuguda Municipality, Maheshwaram Mandal, Ranga Reddy District”.

4. Learned counsel for the petitioner Mr. L. Prabhakar Reddy submits that though the hearing notice dated 23-05-2022 was issued to the petitioner, the respondent Municipality has already predetermined. He submits that the respondent Municipality without conducting enquiry asked the petitioner to stop the construction and apart from that, the petitioner has asked the respondent Municipality repeatedly to furnish the complaint to him, but the same was not furnished to him and questioning the said action, the petitioner filed W.P.No.23994 of 2022, wherein this Court, by interim order dated 26-05-2022, directed the respondents not to take any coercive steps with regard to the construction being made by the petitioner in the subject property if it is being done in accordance with the building permission. Learned counsel submits that during subsistence of the said interim order, the respondent Municipality has passed the order dated 30-05-2022 by keeping the building permission of the petitioner in abeyance until the petitioner clears the dispute as per law on title and possession of the plot. He further submits that when the petitioner has filed earlier writ petition and the same is pending, the respondent Municipality cannot pass the said speaking order. He submits that till now, the respondent Municipality has not given a copy of the complaint to the petitioner and unless he receives a copy of the complaint, he cannot know the

contents of the complaint and it will be difficult for him to answer the said complaint.

5. Learned Standing Counsel for respondent No.2 Municipality Mr. N. Praveen Kumar, on instructions, submits that the petitioner without appearing before the respondent Municipality with all the relevant documents as directed in the impugned notice, he has come up before this Court. He submits that the respondent has also informed that if the petitioner wants to look at the relevant record, he can come to the Municipal Office and check the same and as the enquiry is in progress, it is difficult for them to give a copy of the complaint.

6. Whenever the respondent Municipality is issuing any notice basing on a complaint given by a third party, they are bound to enclose the copy of the complaint along with the notice. Unless such complaint is furnished to the person, basing on which a show cause notice is given by the respondent Municipality, he cannot submit his reply. Hence, both the Writ Petitions are disposed of setting aside the speaking order dated 30-05-2022 and the respondent Municipality shall furnish a copy of the complaint to the petitioner within a period of one week from today and on receipt of the same, the petitioner shall submit his explanation within one week thereafter and then, the petitioner shall also appear before the respondent Municipality on 27-08-2022 and thereafter, the respondent Municipality shall pass appropriate orders in

accordance with law. Till such time, no coercive steps shall be taken against the petitioner. No order as to costs.

7. Miscellaneous petitions, if any pending in these writ petitions, shall stand closed.

4th August, 2022.

SMT LALITHA KANNEGANTI, J

sj