

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA
REDDY**

WRIT PETITION Nos.40819, 40825 and 40868 of 2015

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28.12.2015

Between:

Smt.Shafiya Begum and others

.. Petitioners

and

The State of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration and Urban Development Department, and others
.. Respondents

Counsel for the petitioners: Mr.N.Jayasurya

Counsel for respondent No.1: Assistant Government Pleader
for Municipal Administration and Urban Development (AP)

Counsel for respondent No.2: Mr.Md.Saleem,
standing counsel for Municipalities (AP)

Counsel for respondent No.3: Assistant Government Pleader for Revenue
(AP)

Counsel for respondent Nos.4 and 5: --

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The Court made the following:

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COMMON ORDER:

The petitioners, who allegedly occupied the property belonging to respondent No.2 municipality and have been carrying on business either by themselves or by letting out the shops to others, filed this writ petition feeling aggrieved by the action of the said respondent in removing the structures raised by them before expiry of the time limit stipulated for submission of explanations to the show cause notices, dated 10.12.2015, issued to them.

This Court, by order, dated 16.12.2015, in W.P.No.40825 of 2015, directed the Commissioner of respondent No.2 municipality to be personally present and explain in his counter-affidavit, his alleged action reflecting in paragraph 5 of the writ affidavit. The Commissioner is accordingly personally present today and has also filed a counter-affidavit, wherein he has, *inter alia*, stated that no part of the main structures raised by the petitioners, except the extended portion of the structures made with asbestos sheets from the existing structures, was removed to avoid public inconvenience.

Mr.N.Jayasurya, learned counsel for the petitioners, submitted that respondent No.2 municipality has been showing discrimination between the petitioners and other similarly situated persons to whom separate set of notices were issued calling upon them to pay encroachment fee, thereby permitting them to remain in possession.

Mr.Md.Saleem, learned standing counsel for Municipalities (AP) appearing for respondent No.2 municipality, submitted that the petitioners, who are wealthy people, have raised permanent constructions over public property and been causing serious

inconvenience to the public and that the respondent No.2 municipality is not showing any discrimination between them and the other encroachers. He has further submitted that in respect of third parties whose cases have been cited by the learned counsel for the petitioners, this Court has given a direction to respondent No.2 municipality to initiate proceedings under the Street Vendors (Protection of livelihood and Regulation of Street Vending) Act, 2014 (for short 'the Act') against them and that as the petitioners have occupied the public property by raising permanent structures, they are not entitled to the benefits under the Act.

The cause of action for the petitioners to file these writ petitions arose due to the alleged removal of a part of the structures raised by one of the petitioners even before the time granted to them in the show cause notices, dated 10.12.2015, for submitting their explanation expired. Having regard to the explanation offered by the Commissioner of respondent No.2 municipality, with which this Court has, *prima facie*, satisfied, no further adjudication of this aspect is necessary.

The petitioners are entitled to raise all legally sustainable objections to the show cause notices, dated 10.12.2015, issued to them and respondent No.2 municipality shall deal with each one of those objections and pass a speaking order before proceeding further. In this view of the matter, it is unnecessary for this Court to examine the plea of the petitioners as to whether respondent No.2 municipality has been indulging in discrimination between them and other similarly situated persons.

As the petitioners are stated to have not submitted their objections so far, they are permitted to submit the same within a period of one week from the date of receipt of a copy of this order. On receipt of such objections, respondent No.2 municipality shall hold an enquiry and pass a speaking order as directed above. Needless to observe that till this course is completed, respondent No.2 municipality shall

not remove any further structures.

Subject to the above directions, these Writ Petitions are disposed of.

As a sequel to disposal of these writ petitions, W.P.M.P.Nos.52697, 52702 and 52752 of 2015 in W.P.Nos.40819, 40825 and 40868 of 2015 respectively, filed by the respective petitioners for interim reliefs shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

28th December, 2015
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