

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.35537 of 2015

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Dated 03.11.2015

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Between:

Yella Rajesh

... Petitioner

and

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The State of Andhra Pradesh,

rep. by its Prl.Secretary,

Municipal Administration and Urban Development Dept.

Hyderabad and 2 others

...Respondents

Counsel for the petitioner: Mr.Taddi Nageswar Rao

Counsel for respondent No.1: GP for Municipal Administration

Counsel for respondent Nos.2 & 3: None appeared

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to declare the action of respondent No.2, in threatening to remove the kiosk/buddy situated in the 7th ward in Survey No.72-9 of Chintada Village, Amadalavalasa Municipality, Srikakulam District and instructing respondent No.3 to disconnect power supply to the meter already fixed in the said premises without notice and without following the procedure contemplated under the law, as illegal and arbitrary.

I have heard Mr.Taddi Nagaeswara Rao, learned Counsel for the petitioner.

The petitioner claims that being unemployed, he has been running a small kiosk at the above-mentioned place without obstructing the road or without causing inconvenience to the general public; that respondent No.2 has been trying to remove the kiosk; and that as a first step, it has instructed respondent No.3 to disconnect the power supply to the said premises.

Under Section 190 of the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act'), a person, who is in occupation of Public Property, has no vested right to occupy such property. More often, such occupation causes hindrance to free flow of traffic and various other kinds of inconvenience to the general public. However, Section 194 of the Act prescribed the procedure for eviction of persons in unauthorized occupation of any premises of the Municipal Council. Under Sub-Section

(1) thereof, the Commissioner shall serve notice by affixing a copy of it on the outer door or some other conspicuous part of such premises, or in such other manner as may be prescribed, order that such person as well as any other person, who may be in occupation of the whole or any part of the premises shall vacate the same within one month of the date of the service of the notice, and where such notice relates to any land shall also remove any building or other construction or anything deposited on it. Under Sub-Section (2) thereof, if any person refuses or fails to comply with an order made under Sub-Section (1), the Commissioner may, after giving such person an opportunity of making his representation, confirm such order and evict that person from, and take possession of, the premises and may for that purpose use such force as may be necessary.

In the light of this mandatory procedure, respondent No.2 cannot summarily evict the petitioner. Accordingly, the Writ Petition is disposed of with the direction to the respondents not to evict the petitioner without following the above-mentioned procedure.

As a sequel to disposal of the Writ Petition, WPMP.Nos.45646 and 45647 of 2015, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 3rd October, 2015

LUR