

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.20197 of 2011

Date: 05-06-2015

Between:

Mukka Pedda Raju

.. Petitioner

And:

Koratla Municipality, represented by its Commissioner

Koratla, Karimanagar District and another

..... Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.20197 of 2011

ORDER:

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This writ petition is filed for a mandamus declaring the action of the respondents in proposing to demolish a portion of three shops bearing Municipal No.2-2-111, 112, 113 situated at near Old Bus Stand, Koratla Town, Karimnagar District by issuing one after another notice without passing any orders as arbitrary and illegal and for a consequential direction to the respondents not to demolish three shops without initiating land acquisition proceedings.

2. The case of the petitioner is that he is owner and possessor of three shops (mulgies) bearing Municipal Nos.2-2-111, 112, 113 situated at Near Old Bus-stand, Koratla Town, Karimnagar District and the said shops were constructed by his father after obtaining due permission from the then Gram Panchayat of Koratla on 02-09-1983 and the same was constructed in accordance with the sanction plan without any deviations and the 1st respondent collecting property tax regularly since 1983 for the said shops. It is stated that the respondent authorities issued various notices dated 26-11-2010 and 14-06-2011 asking him to remove the shops as he encroached the road, for which the petitioner submitted his explanation on 11-07-2011, but the respondents neither given any opportunity to the petitioner nor considered his explanation and that the respondent authorities affixed a notice dated 15-07-2011 stating that they shall remove the shops within 24 hours. Aggrieved by the same, the present writ petition is filed.

3. Heard the learned counsel for the petitioner and the learned standing counsel for the respondent-Municipality.

4. Learned counsel for the petitioner submits that without following due procedure and without issuing any prior notice, the respondent authorities straight away issued the impugned notice asking the petitioner to remove the shop, which is illegal and violative of principles of natural justice.

5. On the other hand, learned standing counsel for the respondent-Municipality submits that prior notice will be issued and after following due procedure under the law, action will be initiated against the petitioner in case he encroached the road.

6. In the counter of the 2nd respondent, it is stated that the petitioner agreed that he encroached the road and constructed the shops and sought to remove the structure as per the provisions of the National Highway Land and Control Act, 2002.

7. The case of the petitioner is that the shops were constructed in the year 1983 in accordance with the sanctioned plan without any deviation and he has not encroached any road and without initiating land acquisition proceedings, the respondent authorities have straight away issued the impugned notice for

demolition of structures.

8. In view of above facts and circumstances, the respondent authorities are directed not to demolish the petitioner's shops. If at all the respondent authorities require shops of the petitioner, they can do so after following due procedure as contemplated under law.

With the above direction, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAJASHEKER REDDY, J

Date: 05-06-2015

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