

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.6565 OF 2016

ORDER

Challenge in this writ petition is to the notice dated 25.02.2016 issued by the Wanaparthy Municipal Council. This notice is in consequence to the order passed by this Court in the earlier round of litigation. W.P.No.40713 of 2015 was filed by the petitioner assailing the action of the municipality in threatening to demolish his compound wall. The said writ petition was disposed of by order dated 16.12.2015. The operative portion of the said order reads as under:

‘In my opinion, no action adverse to the interests of the petitioner can be taken based on the impugned notice, which, as observed above, is wholly ambiguous. On this ground alone, respondent No.2 is restrained from taking further steps in pursuance of the impugned notice. However, respondent No.2 is left free to issue appropriate notice to the petitioner giving details of the alleged illegal construction and the reason for issue of such notice. Further action in pursuance of such notice shall depend upon the explanation that may be filed by the petitioner and the decision to be taken by respondent No.2 thereon.

Subject to the liberty given to respondent No.2 as above, the Writ Petition is allowed.’

Sri D.L. Pandu, learned counsel for the petitioner, would however point out that the impugned notice has now been issued without affording any opportunity to the petitioner to offer his explanation and directing him forthwith to remove the encroachment within 24 hours. Perusal of the impugned notice bears out this fact.

As this Court specifically directed the municipality to offer the petitioner a chance to submit his explanation and to take action only after a decision is taken thereupon, the impugned notice reflects clear non-application of mind to the directions of this Court. On this short ground, the impugned notice dated 25.02.2016 is set aside. This order shall however not preclude the respondent municipality from initiating action

afresh as per the directions of this Court in the earlier writ petition.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions shall stand closed. No order as to costs.

SANJAY KUMAR, J

29th FEBRUARY, 2016

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