

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

SUO MOTU C.C.No.1555 of 2016

&

W.P.No.26116 of 2016

ORDER:

This Contempt Case was initiated against the Commissioner of the Vijayawada Municipal Corporation on the basis of the allegation of the petitioner in the Writ Petition that on 09-07-2016, he demolished the petitioner's house contrary to a specific direction given by this Court on 18-01-2008 in W.P.No.593 of 2008.

2. The Commissioner of Vijayawada Municipal Corporation filed a counter disputing this allegation.

3. Therefore, this Court on 14-09-2016 called for a finding from the Metropolitan Sessions Judge-cum-II Additional District Judge, Vijayawada, Krishna District on the question whether the demolition was done by the officials of the Vijayawada Municipal Corporation or by the Revenue and Endowments Departments of State Government as alleged by the Commissioner of the Vijayawada Municipal Corporation in his counter.

4. The Metropolitan Sessions Judge has conducted enquiry and submitted the enquiry report dt.21-10-2016 stating that the demolition of the petitioner's building was done not by the officials of the Vijayawada Municipal Corporation, but it was done by the

Executive Officer of the Sri Durga Malleswara Swamivari Temple and the Sub Collector, Vijayawada.

5. Though objections have been filed by the petitioner in W.P.No.26116 of 2016 to this report, the petitioner is also not able to place any specific material to show that the officials of the Vijayawada Municipal Corporation are responsible for the demolition of the petitioner's structure though this Court in its order dt.18-01-2008 in W.P.No.593 of 2008 has directed it to be done only after following due process of law.

6. Therefore, I am of the opinion that the Commissioner of the Vijayawada Municipal Corporation cannot be proceeded with for violation of the order dt.18-01-2008 in W.P.No.593 of 2008.

7. However, since the enquiry report of the Metropolitan Sessions Judge indicates that the Sub Collector, Vijayawada and the Executive Officer of the Sri Durga Malleswara Swamivari Temple are responsible for demolition of the building of the petitioner and the counter affidavit filed by the said Sub Collector does not indicate that the procedure prescribed under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, has been followed before making demolition of the petitioner's building, and since both the Sub Collector, Vijayawada as well as the Executive Officer of the said temple are employees of the State of Andhra Pradesh which is a party to W.P.No.593 of 2008 and

they are both bound by the said order, *prima facie*, it appears that they have willfully disobeyed the said order passed by this Court on 08-01-2008 in W.P.No.593 of 2008.

8. So the Registry is directed to issue notices to the Sub Collector, Vijayawada and the Executive Officer of the Sri Durga Malleswara Swamivari temple, Vijayawada to show cause why proceedings of Contempt Court shall not be initiated against them for willful disobedience of the order dt.18-01-2008 in W.P.No.593 of 2008.

9. Therefore, the Suo-Motu Contempt Case is closed since the report of the Metropolitan Sessions Judge-cum-II Additional District Judge, Vijayawada, Krishna District referred to above does not disclose any violation by the Commissioner of the Vijayawada Municipal Corporation and the above order passed by this Court. No costs.

10. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 16-12-2016

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