

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

WRIT PETITION No.1684 of 2016

-
21.01.2016

Between:

K.Ayyanna Achari

.. Petitioner

and

The State of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration and Urban Development Department,
Hyderabad and another

.. Respondents

Counsel for the petitioner: Mr.K.Viswanatha Reddy

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

Counsel for respondent No.2: --

The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to declare the action of respondent No.2 in issuing notices, dated 08.01.2016, proposing demolition of shop bearing No.22/268, Vengalapuram, Ward No.22, Karvanpet, Adoni Municipality, Adoni, Kurnool District, as illegal and arbitrary.

The petitioner pleaded that he has constructed a small shopping complex after obtaining building permission from respondent No.2, that respondent No.2 has issued three separate notices on 08.01.2016, whereunder, it has alleged that the petitioner has encroached upon municipal land of varied extents, that on receipt of the said notices, the petitioner has submitted his representation along with title deeds, building permission and tax receipts etc. Apprehending that respondent No.2 will demolish the petitioner's property, he has filed the present writ petition.

At the hearing, Mr.K.Vishwanatha Reddy, learned counsel for the petitioner, has submitted that the three notices issued by respondent No.2 are self-conflicting as regards the extents, which the petitioner has allegedly encroached upon the municipal land and that therefore, they are not sustainable.

Mr.Md.Saleem, learned standing counsel for the Municipalities (AP) appearing for respondent No.2, on instructions, has submitted that the three notices pertain to three different angles of the building constructed by the petitioner, that at each angle, the petitioner has encroached upon a particular extent of the municipal land and that therefore, these notices have shown different extents as encroached by the petitioner. He has, however, admitted that the petitioner has submitted his explanation as claimed by him.

The fact whether the petitioner has encroached upon the municipal land or not is a question of fact, which needs to be decided by respondent No.2 based on the master plan and the material submitted by the petitioner. As the petitioner has already submitted the title deeds and the sanctioned plan, respondent No.2 is directed to examine the said material with reference to the master plan and arrive at a decision as to whether the petitioner has encroached upon public street/municipal land or not. For this purpose, respondent No.2 shall issue notice to the petitioner and hold a personal enquiry before taking a decision. The decision that may be taken by respondent No.2 shall be communicated to the petitioner in writing. Till this process is completed, respondent No.2 shall not remove any part of the petitioner's building.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P.No.2115 of 2016 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

21st January, 2016
GHN