

**HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**W.P.No.25328 of 2008**

**ORDER**

Challenging the proceedings dated 3.11.2008 issued by the 1<sup>st</sup> respondent, the present writ petition is filed.

It is the case of the petitioners that the respondent-Municipality granted lease in their favour in respect of shop Nos. 17, 23 and 29 respectively situated on the west side of Old Municipal Office, Vizianagaram and that it has been collecting the lease amounts regularly from them. It was noticed that water was getting stagnated on the roads, where the petitioners' shops were located and the Municipality passed a resolution on 11.1.2007 to entrust the work to the R & B department and later on to allot the shops to the same owners. The petitioners were asked to deposit an amount of Rs.69,231/- each and they have deposited the same in the month of May, 2007. Even after two years of deposit of the said amount, when no action was taken for construction of structures, the petitioners themselves took up the work and constructed shops by spending huge amounts. When show cause notice was issued on 3.11.2008 for demolition of those structures, the present writ petition was filed.

A counter-affidavit is filed on behalf of the first respondent stating that the petitioners voluntarily deposited the said amount of Rs.69,231/-, and they did not wait till the work was taken up by the R & B Department as resolved by the Municipal Council, Vizianagaram and they took up the work by themselves without

obtaining any permission from the authorities concerned, which is contrary to the lease condition No.17 of lease notification for the year 2007-2008.

It is evident from the above facts that the Municipal Council passed resolution on 11.1.2007 to raise the drain on which the shops of the petitioners were situated and to remove the silt accumulated in the drain by removing the buddies for which the cost was estimated to Rs.15,00,000/- and the petitioners were asked to deposit an amount of Rs.69,231/- and even after depositing the said amount when no work was taken for nearly two years, the petitioners themselves undertook the said work in order to protect the public interest. It is admitted that the shops belong to the Municipal Corporation only and the construction undertaken by the petitioners would enure to the benefit of the Municipal Corporation.

In view of completion of work, no further orders need be passed in the present writ petition by virtue of the interim order passed by this Court on 19.11.2008 in WPMP No.33088 of 2008. It is needless to observe that no action shall be taken against already constructed structures.

Accordingly, Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

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JUSTICE A.RAMALINGESWARA RAO

*8<sup>th</sup> November, 2016*  
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