

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO. 41829 of 2016

Date: 01.12.2016

Between :

Kotha Ravi Kumar S/o Raghupathi Rao,
Aged 48 years, Occu: Contractor,
R/o. H.No.15-7-45, Rotary Nagar,
Khammam City, Khammam District.

.... Petitioner

And

The State of Telangana, rep.by its Principal
Secretary to Government, Municipal Admn. &
Urban Development Department, Secretariat,
Hyderabad and others.

.... Respondents



This Court made the following :

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ORDER :

Alleging that petitioner encroached into the public street and constructed a compound wall even covering the public Bore-well for his personal purpose, causing lot of hardship to the residents of the locality in using the public bore-well, the respondent Municipal Corporation issued notice dated 03.11.2016. This writ petition is filed challenging the said notice primarily on the ground that the said notice is nothing but an order and was not preceded by show cause notice calling for his explanation and if an opportunity is afforded to him, he would satisfy the competent authority about his entitlement to the premises occupied by him.

2. Learned counsel for petitioner would submit that in fact, petitioner has submitted his explanation on 08.11.2016 and also on 22.11.2016, but the same were not considered and he is being threatened with coercive action on the ground that within the time granted in the said notice, the compound wall was not removed.

3. A bare perusal of the notice, dated 3.11.2016 would show that the same was not preceded by show cause notice and the same was issued directly to the petitioner to remove the alleged compound wall and to open bore-well for public consumption and the same was based on the representation made by the local Corporator.

4. Since what is alleged would result in removing of the compound wall and opening of bore-well, which petitioner claims to have been using, I am of the opinion that in the interest of

justice, the respondent-Municipal Corporation be directed to consider the explanations already submitted by the petitioner and pass a reasoned order before taking any coercive action against the petitioner.

5. Having regard to the same, writ petition is disposed of, directing the 2nd respondent to treat the notice dated 03.11.2016 as show cause notice, consider the explanations submitted by the petitioner on 8.11.2016 & 22.11.2016 and pass appropriate orders as warranted by law. It is open to the petitioner to submit additional documents by 05.12.2016 in his support to show that it is his property. If any such document is filed, the same shall also be considered before passing orders. Petitioner shall also file an undertaking before the Commissioner by 05.12.2016 that in the event of finding recorded against him after considering the documents filed by the petitioner, he would voluntarily remove the constructed portion of compound wall and open the bore-well.

Miscellaneous petitions if any pending in this writ petition shall stand dismissed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

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