

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.10452 of 2016

ORDER:

Heard Sri P. Prabhakara Rao, learned counsel for the petitioner, and Sri Nimmagadda Venkateswarlu, learned Standing Counsel for the Macherla Municipality.

The prayer of the petitioner in this case is as under:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not taking action on legal notice dated 12-03-2016 got issued by the petitioner inter alia calling upon to act on the representation, and the endorsement dated

25-01-2016 of the 3rd respondent made there on the members of the Municipal council of the 3rd respondent Municipality seeking not to lay drains through or in the property of the petitioner and for review/cancellation of the item No.35 of the Municipal Resolution No.90 dt.24-10-2014 made in this regard for laying drains as the same is arbitrary, illegal and violative of the principles of natural justice and being violation of Article 14 and 300 A of the Constitution of India as also Sec.47, 53, 56, 59, 67 and 70 of the A.P. Municipalities Act 1965 and to pass such other order or orders as this Hon'ble Court may deem fit just and proper in the circumstances of the case.”

It appears that the petitioner filed O.S.No.52 of 2016 before the learned Junior Civil Judge, Macherla, for a permanent injunction restraining the municipal authorities from digging and laying drains and roads in the suit property claimed by him and an interim injunction was granted in his favour by the trial Court in I.A.No.170 of 2016 filed therein. The grievance of the petitioner presently is with regard to the Municipal Resolution No.90 dated 24.10.2014 passed in this regard.

Sri P. Prabhakara Rao, learned counsel, would state that representation dated 12.03.2016 was addressed in this regard to the Chairman of the Municipal Council, Macherla Municipality, Macherla.

As Section 47(1)(c) of the A.P. Municipalities Act, 1965, vests the Chairperson of the Municipal Council with the power to refer any Resolution of the Council for re-consideration, the Chairperson of the Macherla Municipal Council would have authority to act upon the petitioner's representation dated 12.03.2016, if warranted, and exercise powers under the afore-stated statutory provision. As the Chairperson of the Municipal Council is yet to apply his mind to the said representation, this Court is not inclined to entertain the writ petition at this stage for adjudication on merits.

The writ petition is accordingly disposed of directing the Chairperson of the Macherla Municipal Council, the fourth respondent, to consider the petitioner's representation dated 12.03.2016 and take appropriate action thereon, if warranted, in accordance with law. This exercise shall be completed expeditiously and in any event, not later than four weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

30th March, 2016
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