

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.42425 of 2015

Date:30.12.2015

Between:

P.Girijapathi,
S/o Late Narayanappa

..... Petitioner

And:

The State of A.P., repled., by its
Principal Secretary, Municipal Admn.
& Urban Development Department,
Hyderabad and another.

.....Respondents

Counsel for the Petitioner: Mr. N.Aswartha Narayana

Counsel for Respondent No.1: GP for Municipal Admn. (AP)

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to set aside notice, vide T.N.No.6/2015/TP, dated 21.12.2015, of respondent No.2, whereby it has called upon the petitioner to vacate the municipal drain allegedly encroached by the latter, to the extent of 25.30 square meters, and he has been running a shop.

I have heard Mr. N.Aswartha Narayana, learned counsel for the petitioner and Mr. M.D.Saleem, learned

Standing Counsel for respondent No.2.

A perusal of the impugned proceedings, which are styled as 'notice', shows that the same was issued under Sections-192, 193 and 194 of the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act'). However, this proceeding does not contain any reference to show cause notice being issued to the petitioner.

While referring to the scope of Section-192 of the Act, this Court in its judgment, dated 16-11-2015, in Writ Petition No.37161 of 2015 and batch, held that even though the provisions of Section 192 of the Act do not expressly envisage a prior notice, the principles of natural justice require that such requirement shall be read into the said statutory provision.

Inasmuch as respondent No.2 has not issued a show cause notice and has straightaway directed the petitioner to remove the alleged encroachment, the impugned proceedings are set aside on this short ground, however, with liberty to respondent No.2 to issue a show cause notice to the petitioner and consider the explanation that may be filed by him within the stipulated time before issuing a fresh final notice.

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

As a sequel to disposal of the Writ Petition, WPMP.No.54721 of 2015 shall stand disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*30th December, 2015
DR*