

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

WRIT PETITION No.2164 of 2016

-
27.01.2016

Between:

K.Gururaj

.. Petitioner

and

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

.. Respondents

Counsel for the petitioner: Mr.S.Lakshminarayana Reddy

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

Counsel for respondent Nos.2 and 3: --

The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to set aside notice, dated 12.01.2016, of respondent No.2, whereby the petitioner has been directed to remove the alleged encroachment to an extent of 11.65 sq.mtrs. forming part of premises bearing door No.22/144-1 situated at Adoni town, Kurnool District.

One of the main grounds raised by the petitioner, in order to assail the impugned notice is that no prior notice is issued to him to explain his case. While construing the provisions of Section 192 of the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act'), this Court, by common order, dated 16.11.2015, in WP.No.37161 of 2015 and batch, held that the principles of natural justice shall be read into this provision and that therefore, the Municipalities cannot remove any structure without issuing show cause notice and considering the explanation, if any, filed by the owner of such structure.

Therefore, since no show cause notice has been issued by respondent No.2, it is deemed appropriate that the impugned notice itself shall be treated as such. The petitioner is permitted to submit a detailed explanation raising all the legally permissible grounds against the proposed demolition by respondent No.2 within a period of two weeks from the date of receipt of a copy of this order. Respondent No.2 shall consider the said explanation, pass a detailed speaking order, before proceeding with further action in pursuance of the impugned notice and communicate the same to the petitioner. Till this process is completed, respondent Nos.2 and 3 shall not demolish any part of the petitioner's premises in pursuance of the impugned notice.

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.2744 of 2016 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

27th January, 2016
GHN