

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.Nos.1493 & 2030 of 2017

COMMON ORDER:

Both the writ petitions share similar grievance, therefore this Court deems it appropriate to dispose of the same by this common order.

2. Heard Sri M.V.Hanumantha Rao, learned counsel for the petitioners, Sri B.Mahender Reddy, learned Special Government Pleader appearing for the State and Sri Praveen Kumar, learned Standing Counsel for Respondent-Municipality, apart from perusing the material available on record.

3. The sum and substance of the case of the petitioners as evident from the affidavits filed in support of the writ petitions is that without following the procedure as stipulated under the A.P. Municipalities Act, 1965 and without issuing any notice, the Respondents are attempting to remove the constructions of the petitioners herein.

4. When the matters are taken up, it is represented by the learned Special Government Pleader Sri B.Mahender Reddy that the Respondents would adhere to the mandatory provisions of Section 192 of A.P. Municipalities Act and take action accordingly.

5. On the other hand, it is submitted by the learned counsel for the petitioners that the petitioners are entitled for a notice from the Respondents before taking any further action in the matter.

6. Section 192 of A.P. Municipalities Act, 1965 reads as under:

“Section 192 - Removal of encroachments

(1) The Commissioner may cause to be removed or altered--

(a) any projection, encroachment or obstruction (other than a door, or gate or a necessary access thereto, or bar or ground floor windows) situated against, or in front of such premises and in, or over any street; (b) any article whatsoever, hawked or exposed for sale in a public place or in any public street in contravention of the provisions of this Act, together with any vehicle, package, box or any other thing in or on which such article is placed.

(2) If the owner or occupier of the premises proves that any such projection, encroachment or obstruction under clause (a) of sub-section (1) as existed for a period sufficient under the law of limitation to give any person a prescriptive title thereto or that it was erected or made with the permission or licence of any municipal authority duly empowered in that behalf, and that the period, if any, for which the permission or licence is valid has not expired, the council shall make reasonable compensation to every person who suffers damage by the removal or alteration of the same.

(3) No decision made or order passed or proceeding taken by the Commissioner effecting removal of encroachments shall be called in question before a civil Court in any suit, application or other proceeding and no injunction shall be granted by any Court in respect of any proceeding taken by the Commissioner.”

7. In view of the above submissions, both the writ petitions are disposed of, keeping it open for the Respondents to take action in the matter, in accordance with the provisions of Section 192 of the A.P. Municipalities Act, 1965. Till the said exercise is completed, the interim order of *status quo* granted by this Court shall continue. It is also made clear that in respect of the persons who have already given their consent for removal of the structures, the Respondent authorities can proceed accordingly.

A.V.SESHA SAI, J

Date: 2.2.2017
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