

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 7507 OF 2017

ORDER :

This Writ Petition has been filed seeking a direction to the respondents not to proceed against the properties of the petitioners bearing House Nos. 7-37 and 7-38, Old Malkajgiri, Hyderabad, except by following the due process of law.

Both the petitioners claim to be the owners and possessors of the above-said house properties. On 05.04.2003, when the officials of Malkajgiri Municipality started demolishing the house of the 2nd petitioner for the purpose of road widening, contending that without following the due process of law, the houses could not be demolished, Writ Petition No. 6360 of 2003 was filed before this Court. The said Writ Petition was disposed of following the principles laid down by the Division Bench of this Court in ***P. Lakshmana Rao v. Executive Officer*** (2000(5) ALT 246 (DB)). It was also directed that the respondents should maintain *status quo* obtaining as on that day till the claim is decided. Thereafter, for all these years, nothing had happened. Suddenly, on 28.02.2017, the officials of the 2nd respondent Corporation, without serving any notice, demolished the outer portion of both the houses of the petitioners and the balcony of the house of the 2nd petitioner. Though the petitioners have brought to the notice of the 2nd respondent officials the Order passed by this Court in Writ Petition No. 6360 of 2003, they refused to adhere to the same

stating that it was passed against Malkajgiri Municipality and it is not binding on Greater Hyderabad Municipal Corporation. Hence, this Writ Petition.

Heard learned counsel for the petitioners as well as learned Standing Counsel for Greater Hyderabad Municipal Corporation Sri Chatla Madhu.

While dealing with the same subject matter in Writ Petition No. 6360 of 2003, this Court has already issued a direction, keeping in view the principles laid down by the Division Bench in

P. Lakshmana Rao's Case, which are to the following effect:

- (1) Where a property is required for public purpose viz. widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.
- (2) If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections, if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment or unauthorised occupation and also determine whether the property in question belongs to Government/any other local self-government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.
- (3) In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads &

Buildings Department and disburse the amount of damages quantified forthwith.

- (4) If the demolition is in respect of local bodies, Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.
- (5) In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.
- (6) If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status quo obtaining as on today regarding the structures.”

In view of the above-said guidelines, this Writ Petition is also disposed of directing the respondents not to proceed against the properties of the petitioners, except by following the due process of law. The respondents are further directed to maintain *status-quo* obtaining as on today till the claim is decided. No costs.

Consequently, the miscellaneous Applications, if any shall also stand disposed of.

CHALLA KODANDA RAM, J

03rd March 2017

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