

HONOURABLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION No.16906 of 2017

ORDER:

This Writ Petition is filed to declare the high-handed action of the respondents to demolish or evict the petitioners from the land of Ankamma Poleramma Temple belonging to the 3rd respondent in Sy.No.1047, Pedda Pavani Road, Poleramma Mitta, Kavali Town, Potti Siramulu Nellore District, without issuing any notice required under the A.P. Municipalities Act (for short 'the Act') and without affording any opportunity to the petitioner, as illegal and arbitrary.

Heard and perused the material available on record.

The petitioners constructed shopping complex in the land admittedly belonging to the 3rd respondent, but according to the 2nd respondent the construction was made without obtaining any prior permission from the authorities concerned. For demolition or alteration of building work unlawfully commenced, carried on or completed, the officer concerned by passing provisional order requiring the owner or the builder to demolish the work done or so much of it as in the opinion of the said officer, has been unlawfully executed or to make such alteration as may, in his opinion, be necessary to bring the work into conformity with the Act, bye-laws, rules direction or requisition, or with the plans, and particulars on which such permission or order was based, and may also direct that until the said order is complied with, the owner or builder shall refrain from proceeding with the building or well. The said officer shall serve a copy of the provisional order made under Sub-section (1) on the owner of the building or well together with a notice requiring him to show cause within a reasonable time to be named in

such notice why the order should not be confirmed and take necessary steps under Sub-Rule (3) of Section 228 of the Act.

In the present case, admittedly no provisional order was passed and served on the petitioners as required under Section 228 of the Act. Therefore, the respondents are not entitled to demolish the construction existed in Survey N.1047 of Pedda Pavani Road, Poleramma Mitta, Kavali Town, Potti Sriramulu Nellore District, without following the due process of law. Therefore, the action of the 2nd respondent is declared as illegal and arbitrary, while permitting the 2nd respondent to follow the procedure and take appropriate steps.

Accordingly, the writ petition is disposed of. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

May 11, 2017.
KTL

