

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.39010 OF 2017

ORDER :

This writ petition is filed challenging the notice dated 09.11.2017 issued by the 5th respondent vide RS.No.43/2017 alleging that the petitioner has encroached the road margin, thereby directed the petitioner to demolish the entire construction within seven days.

Learned counsel for the petitioner submits that the subject property was purchased by his father in the year 1962 by way of registered sale deed; that on earlier occasion when the respondent authorities instructed to remove some portion, the petitioner demolished some portion of the said property, but again, the respondents issued impugned notice for removing the entire construction.

On the other hand learned Assistant Government Pleader for Land Acquisition submits that it is purely encroachment of the road, as such, Gram Panchayat officials issued present notice.

Sri Ravi Cheemalapati, learned Standing Counsel for the 5th respondent also submits that it is a case of removal of road encroachment.

It is to be seen that the impugned notice does not speak as to what is the extent of illegal construction that has to be

removed by the petitioner. On the other hand petitioner asserts that the subject property was purchased by his father through registered sale deed and that there is no encroachment of the road margin. A reading of the impugned order does not show that any prior notice was issued to the petitioner. In view of the same, the impugned notice appears to be vague.

Having regard to the aforesaid facts and circumstances, the writ petition is disposed of with a direction to the 5th respondent to issue fresh notice by affording an opportunity of filing explanation to the petitioner and also indicating the extent of encroachment made by the petitioner. After considering the explanation of the petitioner, it is open for the 5th respondent to take appropriate action by following due process of law. Till such exercise is done, *status quo* obtaining as on today shall be maintained. If petitioner does not cooperate by filing explanation, it is open for the respondents to take appropriate action, in accordance with law.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

22.11.2017
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