

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

W.P.No.35337 of 2017

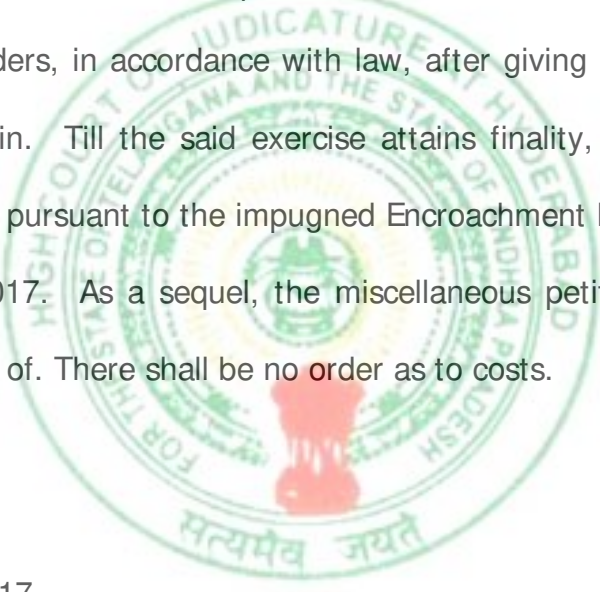
ORDER:

Heard the learned counsel for the petitioner and Sri S.T.Goud, learned Standing Counsel for the respondents 2 to 4.

2. According to the petitioner, he is the owner and possessor of the property admeasuring Ac.0.03 cents in Sy.No.898/3 and 907/2 situated in Chinna Chowk, Kadapa Rural, Y.S.R. Kadapa District, having purchased the same by way of a Registered Sale Deed bearing Doc.No.7697/2002, dated 28.12.2002, for valid consideration. It is further stated that he constructed a residential house in the said property and the same has been assessed to the property tax vide Assessment No.1013076237 and that he has been paying the tax regularly. The second respondent/Commissioner, Municipal Corporation, Kadapa by way of a notice under challenge, directed the petitioner herein to remove the alleged encroachments. According to the petitioner, the subject property is a property purchased by way of a registered sale deed and he is the owner of the same. Reiterating the averments made in the affidavit filed in support of the writ petition, it is contended by the learned counsel for the petitioner that the impugned notice is in total violation of Articles 14 and 300-A of the Constitution of India. It is further submitted by the learned counsel for the petitioner that without being preceded by any show-cause notice calling for the explanation, straightaway the second respondent issued impugned Encroachment Notice No.05/2017, dated 20.10.2017, under Sections 405 and 406 of the Hyderabad Municipal Corporation Act, 1955. It is further submitted that had the opportunity been given to the petitioner, petitioner would have suitably submitted his explanation and would have brought to

the notice of the respondents his right in the subject property. It is further submitted that the impugned action is in total violation of the principles of natural justice.

3. Having heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent Municipal Corporation, this Court deems it appropriate to permit the petitioner herein to submit his explanation to the impugned notice dated 20.10.2017 by treating the same as a show-cause notice within a period of one week from the date of receipt of this order and if any such explanation is submitted within the time stipulated above, the respondents to consider the same and pass appropriate orders, in accordance with law, after giving opportunity to the petitioner herein. Till the said exercise attains finality, there shall be no coercive action pursuant to the impugned Encroachment Notice No.05/2017 dated 20.10.2017. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.


A.V.SESHA SAI, J

Date: 24.10.2017
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Dated: 24.10.2017

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