

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice Gudiseva Shyam Prasad

Writ Petition No.28172 of 2018

Date: 06.09.2018

Between:

Kanthaiah

..Petitioner

and

The State of Telangana
Rep. by its Prl.Secretary
Municipal Administration Department
Secretariat, Hyderabad and 3 others

..Respondents

Counsel for the petitioner: Mr.M.Damodar Reddy

Counsel for respondent No.1: AGP for Municipal Administration

**Counsel for respondent No.2: Mr.G.Chanikya
for Mr.N.Praveen Kumar**

Counsel for respondent No.3: None appeared

**Counsel for respondent No.4: Mr.J.Anil Kumar,
SC for Legal Services Authority**

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed for issue of Mandamus to declare the action of respondent No.4, in passing award, dated 28-07-2018, in PLC.No.62 of 2018, directing respondent No.2 to remove the alleged encroachment as shown in the photographs enclosed to the complaint of respondent No.3, as illegal and arbitrary.

At the hearing, Mr.G.Chanikya, learned Counsel representing Mr.N.Praveen Kumar, learned Standing Counsel for respondent No.2- Municipality, submitted that in pursuance of the impugned Lok Adalat Award, a notice has been issued to the petitioner under Section 192 of the Telangana State Municipalities Act, 1965; that in response thereto, the petitioner has got a reply issued through his advocate on 30.05.2018; and that the proceedings are pending before respondent No.2.

Though *ex facie*, the impugned award suffers from procedural irregularity, in that, the petitioner was not given notice and he has not agreed for passing the award in the Pre-Litigation Case instituted by respondent No.3, no

prejudice is caused to the interests of the petitioner as he has been given an opportunity to represent to respondent No.2 and defend himself against the proposed removal of the encroachment. If the petitioner has not encroached public property, no decision adverse to his interests would be taken by respondent No.2. In a converse case, the petitioner cannot complain against removal of encroachment.

In the above view of the matter, while declining to set aside the impugned Lok Adalat Award, respondent No.2 is directed to consider the complaint of respondent No.3 and explanation of the petitioner objectively & dispassionately, take appropriate decision as to whether the petitioner is an encroacher or not and communicate his decision to both the parties. It is needless to observe that till this process is completed, respondent No.2 shall not interfere with the property in occupation of the petitioner.

Subject to the above observation and directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, IA.No.1 of 2018, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Dt: 6th September, 2018
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