

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.7183 of 2013

Order:

This Writ Petition is filed to declare the action of the respondents in trying to demolish the constructions of the petitioner society without following due process of law and contrary to the orders of this Court in W.P.No.22597 of 1996 as illegal and arbitrary.

This Court in W.P.No.22597, dated 10.07.2003, passed the following order:

“There cannot be any manner of doubt that even if some persons have encroached upon National Highway and constructed shops without obtaining necessary permission, officials entrusted with statutory functions cannot straightaway walk to the premises and demolish the constructions. As per Section 192 of A.P. Municipalities Act, 1965, the Municipality is required to follow the procedure contemplated therein before evicting any encroacher. Likewise, A.P. Land Encroachment Act, 1905 also prescribed procedure for evicting any encroacher after issuing notice.

Therefore, the writ petition is disposed of giving liberty to the respondents to take necessary action against the society, which allegedly constructed seventeen shops in the land abutting National Highway by encroaching the land after following due process of law. Unless such procedure is followed, no coercive steps can be taken against the petitioner or the society.”

The case of the petitioner society is that in spite of the direction of this Court in the above writ petition, the second respondent is trying to demolish the constructions of the petitioner society.

Counter affidavit has been filed by the second respondent stating, *inter alia*, that the petitioner has encroached the road margin and that all

the encroachers were served with notices and that the petitioner did not avail the opportunity given to them by submitting a reply to the notice issued under Section 192 of the Municipalities Act.

Heard learned counsel for the petitioner and learned Standing Counsel for the second respondent.

Learned Standing Counsel for the second respondent fairly submits that for illegal encroachments, the procedure as contemplated under Section 192 of the Municipalities Act has to be followed.

In view of the same, the Writ Petition is disposed of directing the second respondent to follow the procedure as contemplated under Section 192 of the Municipalities Act before proceeding further in the matter. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.



KONGARA VIJAYA LAKSHMI, J.

Date: 14.12.2018
Nsr

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