
(2001) 02 AP CK 0120

In the Andhra Pradesh High Court

Case No : Writ Petition No. 1472 of 2001

Manga Madhavalatha

APPELLANT

Vs

Rajahmundry Municipality

RESPONDENT

Date of Decision : 01-02-2001

Acts Referred:

Citation : (2001) 2 ALT 482

Hon'ble Judges : B. Sudershan Reddy, J

Bench : Single Bench

Advocate : T.V.S. Prabhakara Rao, for the Appellant; E. Sambasiva Pratap, S.C., for the Respondent

Judgement

B. Sudershan Reddy, J.—Heard the learned Counsel for the petitioner and the learned Standing Counsel for the respondent-Municipality and at their request and consent, the matter is taken up for final disposal at the stage of admission.

2. Rule nisi.

3. The petitioner herein claims to be the owner of the building in question. She is aggrieved by the action of the respondent in seeking to demolish her house. It is complained that the respondent is taking steps to demolish the existing building without following the due process of law. It is contended that the said action on the part of the respondent is contrary to the judgment of a Division Bench of this Court dated 3-2-1998 in W.P. No. 21198 of 1997. This Court, having noticed a large number of cases arising out of such action of various Corporations, Municipalities and departments, laid down the following guidelines to be followed by the authorities.

(1) Whether a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

(2) If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections, if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment or unauthorised occupation and also determine whether the property in question belongs to Government, any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

(3) In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

(4) If the demolition is in respect of local bodies/Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

(5) In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

(6) If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status quo obtaining as on to-day regarding the structures.

4. In spite of such specific guidelines, similar action, which was found fault by this Court, is being repeated by various authorities in the State. It is needless to observe that the respondent is bound by the guidelines and law declared by this Court in W.P.No. 21198 of 1997, dated 3-2-1998.

5. Following the guidelines referred to hereinabove and the decision of this Court, this writ petition is disposed of directing the respondent to scrupulously follow the above guidelines issued by this Court and not to demolish the existing building without following those guidelines.

6. The writ petition is accordingly disposed of. No order as to costs.