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**(2002) 12 AP CK 0056**  
**In the Andhra Pradesh High Court**  
**Case No : WA No. 1952 of 2002**

Ved Electrical Stores

APPELLANT

Vs

Additional Commissioner, MCH

RESPONDENT

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**Date of Decision :** 11-12-2002

**Acts Referred:**

Hyderabad Municipal Corporation Act, 1955 — Section 452, 636

**Citation :** (2003) 1 ALD 721 : (2003) 2 ALT 65

**Hon'ble Judges :** Ar. Lakshmanan, C.J; R. Subhash Reddy, J

**Bench :** Division Bench

**Advocate :** Akella Srinivas, for the Appellant; G. Jyothi Kiran, SC, for the Respondent

**Final Decision :** Allowed

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## Judgement

Dr. AR. Lakshmanan, CJ

1. Heard Sri Akella Srinivasa Rao, learned Counsel appearing for the appellant and Smt G. Jyothi Kiran, learned Counsel for the respondent.

2. We have perused the order passed by the learned Single Judge in Writ Petition No. 23050 of 2002. Though a common order was passed in three writ petitions, only one appeal has been filed before us. The learned Judge dismissed the writ petition on the ground that the suit filed by the appellant-writ petitioner is pending and, therefore, the appellant can approach the Civil Court by making appropriate application and that it is not permissible for the appellant to approach this Court when the suit as regards the same subject matter is pending.

3. Section 452 of the Hyderabad Municipal Corporations Act, 1955 (for short "the Act") provides that a written notice has to be issued by the Corporation requiring the person who is erecting or re-erecting such building or executing such work or has erected or re-erected such building or executed such work to show sufficient cause why such building or work shall not be removed, altered or pulled down. In the instant case, no such notice was issued u/s 452 of the Act. However, the

respondent-Corporation straightaway issued a notice u/s 636 of the Act ordering demolition. In our opinion, the procedure followed by the Corporation in straightaway issuing the notice u/s 636 of the Act is impermissible in law. The Corporation shall follow the procedure prescribed under the Act.

4. It was argued by the learned Counsel for the Corporation that a suit for a similar relief is pending before the competent Civil Court and, therefore, the appellant can pursue the said remedy and that the writ petition is not the proper remedy available to it.

5. We are unable to countenance the said submission. The suit was filed by the appellant herein for declaration that the proceedings issued u/s 450 of the Act was illegal and for an injunction restraining the Corporation from demolishing the construction put up. In the instant case, we are concerned with the proceedings issued u/s 636 of the Act straightaway ordering demolition. As already stated, the said proceedings u/s 636 of the Act without issuing a notice u/s 452 of the Act is unsustainable in law. We, therefore, allow the Writ Appeal and reserve liberty to the Corporation to initiate proceedings against the appellant in accordance with the procedure contemplated under the Act. The notice issued u/s 636 of the Act is set aside. In the meanwhile, there will be stay of demolition.