

THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

WRIT PETITION No.2353 of 2023

ORDER:-

This Writ Petition for a mandamus is filed to declare the action of the 2nd respondent in issuing the impugned notice, dated 21.01.2023, directing the petitioner to extract the water stagnated in the land of the petitioner in an extent of Ac.1.32 cents in Kanuru, Penamaluru Mandal of Vijayawada and to fill up and level it with mud or other material within a period of seven days, as illegal and consequently prayed to set aside the impugned notice.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Municipal Administration appearing for the 1st respondent and Sri M. Manohar Reddy, learned Standing Counsel for Municipality appearing for the 2nd respondent.

The petitioner is the owner of the land in an extent of Ac. 1.32 cents covered by R.S.No.256/4 of Kanuru Village in Penamaluru Mandal. The said land is completely filled with rainwater. By the side of the said land in which water is stagnated, there are residential houses. Therefore, the impugned notice was issued by the 2nd respondent to the petitioner to immediately extract the said water from the said land and to fill the said land with mud or other material.

Assailing the legal validity of the said notice, the instant writ petition has been filed by the petitioner seeking the aforesaid reliefs.

The photographs which are now produced by the petitioner along with the material papers of the writ petition itself bear ample testimony of the fact that the land in question is completely filled with water and there are also wild plants grown in the said land filled with rainwater. According to the 2nd respondent, it is hazardous to the health of the inhabitants of the said locality. Therefore, the 2nd respondent is perfectly justified in issuing the impugned notice to the petitioner to extract the said water and fill the same with mud or other material. Except stating that no explanation is sought for before issuing the impugned notice, the petitioner could not show any other valid legal reason to impugn the notice dated 21.01.2023. A perusal of Section 233 of the A.P. Municipalities Act, 1965, which is the relevant provision under which a direction can be given by the municipal authorities to the concerned person for removal of the water, shows that it does not contemplate issuance of any show cause notice calling for any explanation. Therefore, the notice cannot be impugned on the said ground of not calling for explanation from the petitioner before issuing the impugned notice.

Moreover, when the stagnation of the said water poses threat to the health and safety of the inhabitants of the locality, one cannot find fault with the action of the 2nd respondent in issuing the impugned notice. Further, the petitioner now fairly concedes that steps are already taken to extract the said water and fill the land with sand or other material and seven days time given in the notice is not sufficient to extract the water and she would request sufficient time to extract the water and to cover the land with mud or other material.

Therefore, in the said facts and circumstances of the case, the Writ Petition is disposed of with a direction to the petitioner to extract the water from the said land and to fill the same with mud or other material within four (4) weeks from the date of this order. Till the said four weeks period expires, respondents shall not take any coercive steps against the petitioner in this regard. If the petitioner fails to extract the water and fill the land with mud or other material within the stipulated time, then the respondents are at liberty to proceed against the petitioner according to law. No costs.

Miscellaneous petitions, if any pending, in the Writ Petition, shall stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date: 02.02.2023
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THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

WRIT PETITION No. 2353 of 2023

Date: 02-02-2023

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