

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No. 34072 OF 2022

ORDER:

This Writ Petition is filed seeking the following relief:

“ to issue writ order or direction more particularly one in the nature of writ of mandamus declaring the action of the 3rd respondent in issuing the impugned notice to the petitioner vide Lr.No. HMWS&SB/O&M Div.IV/Legal Notice/ 2022-2023/1106 dt. 24.08.2022 under Sections 53 and 57 of the HMWSS Act, 1989 directing the petitioner to remove the encroachments / construction made on the sewer line covered with roof and construction of kitchen on the pipeline, within a period of one week, as illegal, arbitrary, violative of principles of natural justice, violative of Article 14 of Constitution of India and against all settled principles of law and consequently, set aside the same and pass such other orders or reliefs as this Hon'ble Court deems fit and proper in the interests of justice.”

2. Sri Chanakya Basa, learned counsel for the petitioner submits that notice dated 24.08.2022 was issued to the petitioner directing the petitioner to remove the encroachments made on the sewer line covered with roof and construction of kitchen on the pipeline within one week otherwise they will take appropriate action against the petitioner. He submits that the petitioner has not made any encroachment and apart from that before passing this order, the respondents have not issued any notice to the petitioner. According to the learned counsel, the notice impugned is

contrary to the principles of natural justice and on this ground alone, the said notice has to be set aside.

3. Sri G. Narender Reddy, learned Standing counsel for the 2nd respondent submits that he will come up with a counter-affidavit.

4. The order impugned shows that neither in the reference nor in the body, there is no reference to the show cause notice and it can be safely concluded that no notice is issued to the petitioner before passing the impugned order which is arbitrary and illegal.

5. Accordingly, the notice dated 24.08.2022 is hereby set aside giving liberty to the respondents to issue a show cause notice and pass appropriate orders in accordance with law. Till such time, the respondents shall not interfere with the petitioner's possession.

6. The Writ Petition is accordingly, allowed. No order as to costs.

7. The miscellaneous Applications, if any shall stand closed.

LALITHA KANNEGANTI, J

18th October 2022

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