

HIGH COURT OF ANDHRA PRADESH

MAIN CASE: W.P. No. 10627 of 2023

PROCEEDING SHEET

SL. NO.	DATE	ORDER	OFFICE NOTE
01.	25.04.2023	<u>RNT, J</u> Heard Sri Kolluri Arjun Chowdary, learned counsel for the petitioners. 2. Learned AGP for Municipal Administration takes notice for respondent No.1 and Sri G. Naresh Kumar, learned counsel, takes notice for respondent No.2. 3. The petitioners challenge the impugned notice(s) dated 24.04.2023, by which the petitioners have been directed to remove the encroachment on the drainage, within 3 days, failing which it is provided that the same shall be removed by the Municipal Corporation. 4. Submission of the learned counsel for the petitioners is that any notice as contemplated under Section 194 (1) of the A.P.Municipalities Act was not served to the petitioners, but a notice dated 17.04.2023, which in fact was in the nature of the order, directing to remove the alleged encroachment, was given, to which the petitioners submitted reply on 24.04.2023, but without considering the petitioners' reply specifically, as well, the impugned order/notice has been issued. He further submits that any	

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		survey was not conducted to find out, if the petitioners encroached upon the drainage or not and if there was some encroachment, to what extent the said encroachment was there. He submits that the house buildings are more than 40 years old, of which the petitioners are owners to which the door numbers were allotted and they are paying the house taxes. 5. Sri G. Naresh Kumar, learned counsel, representing respondent No.2, prays for and is granted three weeks time to file counter affidavit. 6. From perusal of the notice dated 24.04.2023, <i>prima facie</i>, the opportunity was not granted to the petitioners to file explanation, but a direction was given to remove the alleged encroachment, within 3 days. As per Section 194 (1) of the A.P.Municipalities Act, for eviction from municipal premises, one month notice is required to be given from the date of service of the notice. It also transpires that in the order/notice, the occupation of the whole or any part of the premises, as the case may be, from which the unauthorized possession is to be removed should be indicated, but has not been indicated in the impugned order/notice. 7. <i>Prima facie</i>, there is no notice of one month as contemplated by Section 194 (1) of the A.P.Municipalities Act. 8. Let counter affidavit be filed by the	

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		respondents. 9. If counter affidavit is filed, reply affidavit, if any, may be filed by the learned counsel for the petitioner, within further period of two weeks. 10. List on 27.06.2023. 11. Till the next date of listing, the impugned order/notice dated 24.04.2023, shall remain stayed. 12. However, it shall be open for the 2nd respondent, in the meantime, to make survey to ascertain the encroachment over the drainage and its extent by each of the petitioners, and if there is encroachment, then to proceed, in accordance with law, by giving due notice, as contemplated under A.P.Municipalities Act. RNT, J <u>Note:</u> Furnish copy tomorrow B/o Dsr	