

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NO.25834 of 2015

Between :

B. Venkata Ramana S/o.Pedda Subbanna,
Aged 55 yrs, R/o.3/344B, Vempalli Road,
Yerraguntla, Kadapa District & 48 others.

.. Petitioners

and

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Municipal Administration & Urban Development Department,
Secretariat, Hyderabad & another.

.. Respondents

DATE OF JUDGMENT PRONOUNCED : 14.08.2015

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SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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1. Whether Reporters of Local Newspapers : Yes / No
may be allowed to see the Judgments ?
2. Whether the copies of judgment may be : Yes / No
marked to Law Reporters/Journals
3. Whether Their Lordship wish to : Yes / No
see the fair copy of the Judgment ?

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.25834 of 2015

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ORDER :

The petitioners challenge the notices dated 10.08.2015 issued by the Commissioner, Nagara Panchayat, Yerraguntla, Kadapa District, contending that the Commissioner has no competence and jurisdiction to issue such notices and therefore, the notices itself are vitiated therefore, the question of petitioners submitting their explanation does not arise.

2. Learned counsel for the petitioners submit that valid pattas were granted to the petitioners as landless poor persons and after due permissions, they have undertaken construction of small houses and they have been living in those houses for long time and are also paying the taxes payable for the houses they constructed.

3. According to learned Standing counsel in accordance with the provisions contained in Section 37 of the Andhra Pradesh Municipalities Act, 1965 (for short 'the Municipalities Act'), eviction of lands belonging to the Government in the Municipality vests in the Municipal Council. Learned standing counsel also points out that the notices seek only to elicit information with regard to ownership of lands and obtaining of permission for construction of the buildings and therefore, submits that the petitioners ought to have submitted the information as required but rushed to this Court, even before explanations are filed.

4. As seen from the notices, it only requires the petitioners to place before the Commissioner the proof of ownership of the plots they are now in occupation and also the proof of grant of building permissions.

5. On going through various provisions of the Municipalities Act, 1965 particularly the provision contained in Section 37 it cannot be said that no power vests in the municipality to take action against illegal constructions made without obtaining due permission from the Municipality. The Municipal Council is competent to issue notices calling upon the persons in occupation to explain why action should not be taken. It appears that what is contemplated is preliminary exercise on the part of the Commissioner to ascertain the ownership and status and also legal status of the buildings constructed. If the petitioners can satisfy the Commissioner that the plots were validly allotted to them and pattas were granted and permissions were obtained from the then Gram Panchayat, for construction of buildings, the matter can end there. Therefore, at this stage, it cannot be said that great prejudice is caused to the petitioners by virtue of the notices impugned in the writ petition warranting interference at this stage.

6. However, liberty is granted to the petitioners to submit detailed explanations and also raise objections as contended in the writ petition. It is also open to the petitioners to request the Municipal Commissioner, for furnishing of documents, such as survey report as referred to in the notices. Such request to supply relevant documents should be made within a period of one week from the date of receipt of copy of this order. On such request, the Commissioner shall furnish all the relevant documents. After receipt of the documents furnished by the Municipal Commissioner, the petitioners shall submit their explanations enclosing the relevant documents in support of their claim within further period of two weeks. After receipt of explanations, the Commissioner shall grant personal hearing to the petitioners or their representatives or their Advocates and after hearing them, pass a reasoned order and communicate the same to the petitioners. Till the orders are passed, the respondents are directed not to take any coercive steps against the petitioners.

7. With the above observations, this Writ Petition is disposed

of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO,J

14th August, 2015.
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