

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

FRIDAY, THE FOURTEENTH DAY OF AUGUST TWO
THOUSAND AND FIFTEEN

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Present

HON’BLE SRI JUSTICE P.NAVEEN RAO

-
WRIT PETITION No.25691 of 2015

Between:

Smt. B. Sarojamma,
W/o. Venkatesulu,
Age 63 years, Occ: Business,
R/o. H.No.17-145/A, Park Road,
Nandyal Municipality,
Kurnool District, A.P.

.. Petitioner

AND

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

.. Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.25691 of 2015

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ORDER:
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The petitioner filed this writ petition alleging that the 2nd respondent Municipality is illegally removing the structures made by the petitioner within the petitioner's property. The petitioner claims that she is the owner of House bearing H.No.17-145B, situated at Park Road, Nandyal Municipality, Kurnool District. According to the petitioner, the petitioner installed a Flour mill, Korra huller and Lathe machine after obtaining necessary permissions. The building plans were also approved by the 2nd respondent Municipality and, accordingly, constructions were made and the said mill is in operation. Earlier, a notice was issued for removing of encroachments by the 2nd respondent Municipality. Aggrieved thereby, the petitioner filed O.S.No.655 of 2000, on the file of the Principal Junior Civil Judge, Nandyal. The said suit was dismissed. Aggrieved thereby, the petitioner filed A.S.No.42 of 2010, on the file of the III Additional District Judge, Nandyal, which was dismissed on 26.04.2012. Thereafter, the petitioner filed Second Appeal No.988 of 2012, which is pending consideration by this Court.

2. Learned counsel for the petitioner, therefore, contends that it is illegal on the part of the 2nd respondent Municipality to remove the structures without following the due process. No further notice was issued to the petitioner after 17.11.2000 notice, which was the subject matter of suit and first appeal and second appeal. The petitioner is not in occupation of the municipal land and, therefore, without following the due process, no such action can be taken.

3. Learned Standing Counsel for the 2nd respondent produced letter written by the petitioner and two others on 10.08.2015 giving undertaking to the 2nd respondent Municipality that they will remove the alleged illegal structures and that they have no objection for removal of illegal structures. However, insofar as the removal of small room on the North side, three days time was sought and in three days, if it is not removed, they have no objection for removal by the 2nd respondent Municipality. In the said letter, the petitioner admits that there was encroachment of the municipal land and construction of shed and a room was made on the land belonging to the 2nd respondent Municipality. He also admits that earlier because of the Court litigation, structures were not removed and now this Municipality is taking steps. This letter clearly points out that the petitioner agrees that the property belongs to the 2nd respondent Municipality, in which illegal construction is made and that earlier the illegal construction was not removed on the ground of pendency of civil litigation though there was no injunction and in fact, the suit and appeal

filed by the petitioner were dismissed. Thus, I see no merit in the writ petition. In fact, the petitioner is guilty of not stating the true facts having given an undertaking before the 2nd respondent Municipality.

4. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 14th August, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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