

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.12401 OF 2015

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Date: 08.06.2015

Between :

Vegunta Srihari Nataraja Hanuma Vital

Prasad Babu, s/o. Radhakrishna Rao,

Aged 59 years, r/o.D.No.8-1-12/2,

Benarjipeta, near Panduranga Theatre,

Eluru, West Godavari District.

... Petitioner

and

State of Andhra Pradesh, rep.by its Principal

Secretary, Municipal Administration

Department, Secretariat, Hyderabad and others.

... Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.12401 OF 2015

ORDER:

With the consent of learned counsel for the petitioner and learned counsels for the respondents, this writ petition is disposed of at the admission stage.

2. Petitioner claims to be the owner of building bearing Door No.8-1-12/2, Benarjipeta, near Panduranga Theatre, Eluru, West Godavari District. Neighbour of the petitioner arrayed as 4th respondent in the writ petition obtained building permission for construction of a residential house with ground plus two floors on 16.01.2013, whereas he has constructed ground plus three floors and on the top of the third floor he has construction a cell tower. According to the learned counsel for the petitioner both actions of the 4th respondent are illegal.

3. In order to ascertain the correct facts, petitioner has also applied under the Right to Information Act to the Public Information Officer of Eluru Municipal Corporation regarding various aspects of granting permissions and information furnished by them would disclose that third floor was illegally constructed and no permission was granted for construction of the said cell tower. In spite of respondents noticing the above illegalities no action has been taken compelling

the petitioner to invoke jurisdiction of this Court.

4. Learned counsel for the petitioner submits that on the application submitted by the petitioner earlier, portion of the cell tower construction sought to be made by the 4th respondent was removed, whereas no further action is taken.

5. Apparently, as seen from the pleadings of the affidavit filed in support of the writ petition and enclosed material papers, no representation/complaint was made by the petitioner alleging illegal construction of building and construction of cell tower over the illegally constructed building till date. Hence, it cannot be said that respondents have not acted upon the contentions raised by the petitioner warranting interference by this Court at this stage. In the said manner the writ petition is premature.

6. However, having regard to the serious nature of the allegations made by the petitioner, liberty is granted to the petitioner to file a complaint before the 2nd respondent on the illegal construction of third floor as well as construction of cell tower above third floor. As and when such complaint is made, the 2nd respondent shall consider the same and pass appropriate orders as warranted by law. It is necessary to put the respondents 3 and 4 on notice and afford opportunity of hearing. Petitioner is also directed to file another application before the 2nd respondent to stop operation of the cell tower if the same is already not commenced. Such application should be considered on its merits. The entire exercise shall be completed as expeditiously as possible, preferably within a period of four weeks from the date of receipt of complaint from the petitioner.

7. The writ petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions if any pending in the writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 08.06.2015

Note:

Issue C.C. by three days.

B/o.

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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