

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.27800 of 2015

DATED : 31.08.2015

Between :

U.Sudeendra S/o.Late U.Gururaja Achary,
Aged about 46 yrs,
R/o.H.No.4-507, Opp: Bus Stand,
Mantralayam, Kurnool District.

.. Petitioner

and

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Panchayat Raj Department,
Secretariat, Hyderabad & others.

.. Respondents

This court made the following :

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ORDER :

The petitioner claims to be the owner of house in Plot No.2 in Sy.No.64/38 bearing D.No.4-507, Mantralayam Gram Panchayat, Kurnool district. Alleging that the 6th respondent has constructed a lodge adjacent to his house, without leaving set backs by encroaching into his land, land of R & B on Eastern side and the land belonging to Zilla Parishad on western side, and alleging that no action is taken on the complaints filed by the petitioner, the petitioner earlier invoked the jurisdiction of this Court in W.P.No.26555 of 2008. The said writ petition was disposed of, by order dated 01.07.2009 recording the information placed before this Court stating that the encroacher has himself removed the encroachments, after receiving notices under the A.P. Land Encroachments Act, and that the petitioner does not wish to pursue the matter further.

2. This writ petition is instituted alleging inaction of the respondents in taking action against the illegal constructions and encroachment made by the 6th respondent and constructing building contrary to the sanctioned plan and consequent direction to take action against the 6th respondent for the illegal constructions and

encroachments made by the 6th respondent.

3. The petitioner earlier filed W.P.No.26555 of 2008 praying to grant the following relief :

“Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of the respondents herein in not considering the representation of the petitioner dt.4.11.2008 filed before the 1st respondent and representations dt.6.08.2008 filed before the 2nd and 3rd respondent and not taking action to stop the encroachments and illegal construction as arbitrary, illegal and consequently direct the respondents 1 to 3 to consider the representations of the petitioner dt.4.11.2008 and 06.08.2008 respectively and take appropriate action on the same and pass.”

4. When the matter was taken up for consideration, in the above writ petition, the Learned Government Pleader produced letter issued by the 4th respondent-District Collector, dated 29.06.2009 stating that the encroacher has himself removed the encroachments after receiving notice under A.P. Land Encroachment Act. In view of the said development, the petitioner volunteered before this Court, that he would not wish to pursue the matter further and accordingly, the Writ petition was disposed of, as having become infructuous.

5. After six long years, the petitioner comes to this Court alleging the same grievance as alleged in the above writ petition. He now contends that the 6th respondent has not removed the encroachments but a wrong submission was made to this Court. As seen from the order passed by this Court, the Court has not disposed of the writ petition basing on the averments made on behalf of the respondent, but the petitioner himself stated that he was not intending to prosecute the writ petition.

6. He did not dispute the contents of said letter. Even assuming that there was some wrong representation, no further steps were taken by the petitioner for six long years. After six years, on 15.06.2015, he alleged to have given notice to the respondents alleging illegal constructions made contrary to the sanction plan, and filed this writ petition.

7. Having regard to the above, I do not see any bonafides, in the manner of prosecuting the grievance of the petitioner. Even assuming that the 6th respondent has made some illegal constructions, having filed W.P.No.26555 of 2008 on the same issue and made a statement before this Court that he was not intending to prosecute the litigation he cannot institute fresh writ petition. It is not his case that illegal constructions are made after the disposal of earlier writ petition. If the petitioner has any grievance with reference to illegal encroachment of the land of the petitioner it is purely a civil dispute. The petitioner ought to have availed appropriate civil remedy as available in law. Hence, I do not see any merit in the writ petition and accordingly, it is dismissed. There shall be no order as to costs.

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

P.NAVEEN RAO,J

31st August, 2015.

Rds