

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

WRIT PETITION NO.24180 of 2015

Between :

Mahendra Kumar Jain S/o.Late Misrimal Jain,
Aged 46 yrs, Occu : Business,
R/o.Door No.26-6-35, Ganjamvari Veedhi,
Masjid Centre, Kakinada, East Godavari District,
Andhra Pradesh.

.. Petitioner

and

Kakinada Municipal Corporation,
Rep., by its Commissioner,
Kakinada & others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED : 04.08.2015

-

SUBMITTED FOR APPROVAL:

-

-

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

-

-

-

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

-

WRIT PETITION No.24180 of 2015

-

ORDER :

With the consent of learned counsel for petitioner and learned standing

counsel appearing for Kakinada Municipal corporation, the writ petition is taken up for final disposal at the stage of admission.

2. This writ petition is instituted aggrieved by the notice dated 24.7.2015 issued under Section 456 of the Hyderabad Municipal Corporation Act directing the petitioner and others to remove the building within seven days.

3. Learned counsel for petitioner submits that the building is not in dilapidated condition as sought to be made out in the impugned notice and the condition of the building is good. That the petitioner is carrying on his business without any hindrance and there is no structural damage caused to the building nor there is any danger to the passers by on account of the condition of the building. He further submits that the impugned action of the respondents is ex-facie illegal and that no prior opportunity was afforded before mandating to vacate the premises or to undertake the repairs and the same is vitiated on that ground alone.

4. Learned standing counsel representing Kakinada Municipal Corporation is fair in submitting that if the petitioner submits a structural report by a qualified person preferably from a leading Engineering college or University, same may be considered accordingly and that notice issued on 24.7.2015 would be treated as one issued under Section 459 of the Act and after affording due opportunity to petitioner, appropriate orders would be passed in the matter.

5. Having regard to the same, petitioner is directed to obtain structural report of the subject building from Jawaharlal Nehru Technological University, Kakinada and if said University expresses inability to undertake such assignment for any valid reasons, from Siddhartha Engineering College, Vijayawada and submit the same along with their explanation to the respondent corporation within four weeks from the date of receipt of copy of this order. Such report shall be prepared in presence of engineers of the Municipal Corporation. On submission of the report and explanation by the petitioner, the respondent corporation shall afford opportunity of personal hearing to petitioner or his representative, consider the objections raised by him and pass appropriate final order in accordance with law within a period of four weeks thereafter. Until final orders are passed by the respondent corporation, no coercive steps shall be taken against the petitioner. In the meanwhile petitioner shall forthwith take all

precautions for the stability of the building and safety of neighbors and passers by.

Subject to above, writ petition is disposed of. No costs. Having regard to the same, all old miscellaneous petitions are closed.

_____ **P.NAVEEN RAO,J**

04th August, 2015.

Note : Copy by tomorrow

B/o.

Rds