

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

**THURSDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FIFTEEN**

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Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.27403 of 2015

Between:

Yadavalli Venkaiah, S/o. Siva Kotaiah,
Hindu, Aged about 70 years,
R/o. D.No.24-1/1188/2 (old),
24-1/1218 (new),
Basheernagar, Lakeview Colony,
Dargamitta, Nellore.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Municipal Administration &
Urban Development Department,
Secretariat, Hyderabad & 2 others

.. Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

The petitioner claims to be owning 80 Ankanams in Ward No.24 in CAS No.555/4, Basheer Nagar, Lakeview Colony, Dargamitta area, Nellore Town. The petitioner avers that he has constructed pacca house and living there. In this writ petition, the petitioner challenges the notice issued by the 2nd respondent Municipal Corporation on 10.07.2015 under Section 406 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act') calling upon the petitioner to show cause why he should not be evicted from the said premises and why the Corporation should not take possession of the same as the said premises is reserved as an open space in the layout permission No.132/67. The petitioner claims to have submitted an explanation to the said show cause notice on 10.08.2015. Alleging that without passing orders on the explanation submitted by the petitioner, the 2nd respondent Municipal Corporation is threatening to evict the petitioner and the same is illegal.

2. Sri Ancha Pandu Ranga Rao, learned Standing Counsel for the 2nd respondent Municipal Corporation submits that earlier the petitioner instituted O.S.No.207 of 2004, on the file of III Additional Junior Civil Judge at

Nellore. The said suit was filed to grant permanent injunction restraining the defendant and his subordinates from interfering with the peaceful possession and enjoyment of the plaintiff. In the said suit, the Municipal Corporation was granted liberty to proceed against the petitioner in accordance with law.

3. The judgment and decree in O.S.No.207 of 2004 was passed on 27.10.2011. According to the decree, the Municipal Corporation is entitled to proceed against the petitioner by following the due process as prescribed under the Municipalities Act (now the Greater Hyderabad Municipal Corporation Act, 1955). The show cause notice now issued is in accordance with the provisions of the Greater Hyderabad Municipal Corporation Act, 1955, which governs the 2nd respondent Municipal Corporation. It is settled principle of law that open spaces in any layout vest in the Municipal Corporation and they become public spaces and there cannot be any occupation of such spaces. Therefore, when notice is issued asking the petitioner to vacate the premises on the ground that the subject premises is an open space as per the layout, it cannot be said that the 2nd respondent Municipal Corporation exceeded its jurisdiction in issuing such notice and calling upon the petitioner to submit his explanation. Therefore, this Court cannot interfere at the stage of issuance of show cause notice.

4. Having regard to the apprehension expressed by the petitioner, the 2nd respondent Municipal Corporation

is directed, as already directed by the civil Court to follow due process before evicting the petitioner, to take a decision as per the show cause notice issued considering the objections filed by the petitioner and until the orders are passed, the 2nd respondent Municipal Corporation shall not take any coercive steps against the petitioner.

5. With the above observations, the 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

Date: 27th August, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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Date: 27th August, 2015

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