

**MONDAY, THE SEVENTEENTH DAY OF AUGUST TWO
THOUSAND AND FIFTEEN**

HON'BLE SRI JUSTICE P.NAVEEN RAO

Between:

.. Petitioner

.. Respondents

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.25924 of 2015

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ORDER:

According to the petitioner, her husband purchased property to an extent of 300 square yards in Survey No.35/7, situated at Sriramnagar, Mulagada, with a tiled house vide registered Sale Deed, dated 26.07.1990. After the death of her husband, the petitioner applied for construction of a building by demolishing the existing building in the year 2012 and the building permission was granted on 28.06.2012. In accordance with the permission granted, the building was already constructed. The 3rd respondent is disputing the ownership on the subject property and he filed O.S.No.1303 of 2012, which is pending on the file of the II Additional Senior Civil Judge, Visakhapatnam. He sought for a declaration of title and for recovery of possession. While so, at the instance of the 3rd respondent, the impugned notice, dated 03.08.2015, is issued directing the petitioner to submit her explanation as to why the earlier building permission should not be cancelled on the ground that instead of undertaking construction in Survey No.35/7, she has undertaken construction in Survey No.35/19, which is classified as Government land. The notice refers to certain communication between the 3rd respondent and the Greater Visakhapatnam Municipal Corporation and letter by the Tahsildar. The petitioner submitted explanation on 11.08.2015. Apprehending that the respondents are going to take coercive steps even before the orders are passed, this writ petition is filed.

2. Learned counsel for the petitioner contends that though the notice is issued, but no relevant documents are supplied to the petitioner and when there is a dispute pending before the civil Court where the 3rd respondent was unsuccessful in getting any interlocutory order, at his instance, the notice ought not to have been issued without verifying the true facts and alleging that the petitioner encroached into the Government land and that the building was constructed within Survey No.35/7.

3. Learned Standing Counsel, on instructions, submits that due process will be followed before taking any coercive action against the petitioner. The respondent Corporation shall be advised to furnish the relevant documents, more particularly, the report of the Tahsildar, dated 18.04.2015, to the petitioner.

4. Having regard to the said submissions, the Writ Petition is disposed of, directing the 2nd respondent Municipal Corporation to furnish all the relevant documents, which are referred to in the notice, dated 03.08.2015, within a period of one (1) week. As soon as the said documents are furnished to the petitioner, it is open to the petitioner to file additional reply within a further period of two (2) weeks. On consideration of the reply and additional reply and examination of the documents, the 2nd respondent Municipal Corporation shall pass orders, as warranted by law. Until final orders are passed, the 2nd respondent Municipal Corporation shall not take any coercive action against the petitioner. Since the process is initiated at the instance of the 3rd respondent, the 2nd respondent Municipal Corporation shall also cause notice to the 3rd respondent and

give due opportunity of hearing both to the petitioner as well as the 3rd respondent before finalizing the issue. 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: 17th August, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.25924 of 2015

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Date: 17th August, 2015

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