

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.10377 of 2015

Dated : 06.07.2015

Between:

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Surampalli Ramesh S/o.Late Brahamaji,
Hindu, Aged about 50 yrs, Occu : Consulting Engineer,
R/o.D.No.8-7-19, Perlavari Street, Srikakulam-532001,
State of Andhra Pradesh.

.. Petitioner

And

Srikakulam Municipality, rep., by its Commissioner,
Srikakulam State of Andhra Pradesh & 2 others

.. Respondents

This Court made the following :

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ORDER :

The petitioner has applied for building permission on 06.08.2014. The said application of the petitioner was refused on the ground that the partition deed enclosed with the application is unregistered and also there is no mention about the survey number in the link document enclosed. As a consequence of the said endorsement dated 20.08.2014, a notice was issued on 25.08.2014 directing the petitioner to remove the unauthorized constructions made, without obtaining appropriate permission from the municipality. Challenging the said endorsement dated 20.08.2014, this writ petition is instituted.

2. At the admission stage, this Court on 13.04.2015, granted an order of status quo to be maintained by both the parties.

3. Praying to vacate the said interim order, the 3rd respondent filed WVMP.No.1890 of 2015.

4. Today when the vacate stay petition is taken up for consideration, learned counsel for the petitioner, learned counsel representing the 3rd respondent as well as learned Standing counsel for the Municipality agreed for disposal of the writ petition.

5. Against a decision of the Municipal Commissioner, refusing to grant building permission, an appeal shall lie to the Municipal Council under Section 345 (1) (d) of the Municipalities Act, 1965 (for short 'the Act'). Admittedly, no such appeal was preferred by the petitioner. But a representation was submitted on 10.09.2014 to the very same authority who has refused the building permission. The petitioner has also not challenged the proceedings dated 25.08.2014, whereby he was directed to remove the unauthorized constructions. When the petitioner has an effective remedy of appeal under Section 345 (1) (d) of the Act, the writ petition at this stage is not maintainable and is liable to be dismissed.

6. At this stage, learned counsel for the petitioner submits that the petitioner would be advised to prefer an appeal. But in the meantime, there is a threat of demolition in view of the notice issued on 25.08.2014.

7. Having regard to the earlier order of status-quo, granting liberty to the petitioner to prefer an appeal under Section 345 (1)(d) of the Act, the respondent-Municipality, is directed not to enforce the notice issued on 25.08.2014 till the appeal is disposed of. However, the petitioner shall file an appeal within two (2) weeks from today and the Municipal Council shall

dispose of the appeal within four (4) weeks thereafter. If no appeal is filed within two weeks, the above protection given to the petitioner shall stand automatically vacated. In so far as *inter se* dispute between the petitioner and 3rd respondent is concerned, it is open to the parties to work out their remedies in pending O.S.No.372 of 2014 on the file of Additional Senior Civil Judge, Srikakulam. The petitioner is also directed not to undertake any construction till the disposal of the appeal.

8. With the above directions, the Writ Petition is dismissed. There shall be no order as to costs.

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

06th July, 2015
Rds

P.NAVEEN RAO,J