

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

WRIT PETITION No.23469 of 2015

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Between:

Bhagyanagar Abhivrudhi Committee,
Bearing Registered No.182 of 2015,
under Societies Registration Act, 2001,
Rep. by its Secretary, Indana Govinda Rao,
S/o. Venkateswara Rao, Age about 58 years,
Occ: Retired Employee, R/o. H.No.3-133,
Dwaraka Nagar, Tangellamudi Village,
Eluru Mandal, West Godavari District.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Panchayath Raj & Rural Development
Department, A.P. Secretariat,
Hyderabad & 4 others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 29.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

- 1 Whether Reporters of Local newspapers No
may be allowed to see the Judgments?
- 2 Whether the copies of judgment may be No
marked to Law Reports/Journals
- 3 Whether His Lordship wish to see the No
fair copy of the Judgment?

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.23469 of 2015

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ORDER:

According to the petitioner, Layout Permission No.489/1982 was granted to build a residential colony in Tangellamudi Village, Eluru Mandal, West Godavari District. The layout consisted of plots 58 in number and named as "Bhagyanagar". In terms of the requirement, certain portions in the layout were left as open spaces. Roads were also formed. Open spaces and the roads vested in the Gram Panchayat. While so, the petitioner's society has noticed that certain unauthorized persons sought to encroach into these open spaces and when they have noticed certain illegal action is going on, they have represented to various authorities for taking appropriate steps to protect the open spaces, which vest in the public and does not belong to any individual person. Series of representations are submitted to various authorities including to the District Panchayat Officer, Eluru, West Godavari District (4th respondent). The representation submitted to the District Panchayat Officer, Eluru, West Godavari District (4th respondent) on 12.06.2015 is placed as Ex.P-6. So far, no orders are passed on the said representation. Hence, this writ petition.

2. Learned counsel for the petitioner submits that as per the rules notified vide G.O.Ms.No.188, Panchayat Raj and Rural Development (Pts.IV) Department, dated 21.07.2011, power is vested by Rule 4 to remove any encroachments into public spaces. Thus, when a valid power is vested and it is the mandatory responsibility of the Gram Panchayat to protect the public spaces, not taking any action on the representations is illegal.

3. As seen from the material enclosed to the writ petition, several representations are submitted to various authorities, but the primary authority to deal with the issue even according to the rules notified vide G.O.Ms.No.188, Panchayat Raj and Rural Development (Pts.IV) Department, dated 21.07.2011, is the Gram Panchayat. The District Panchayat Officer is vested with power to review functioning of Gram Panchayat on protection of its properties and monitor process of eviction. Over all power to supervise such issues is vested in the District Panchayat Officer. A representation was submitted on 12.06.2015 to District Panchayat Officer.

4. Having regard to the same, the Writ Petition is disposed of, without expressing any opinion on merits, directing the District Panchayat Officer, Eluru, West Godavari District (4th respondent) to consider the grievance of the petitioner as agitated in the representation, dated 12.06.2015, about alleged illegal encroachments into public spaces in the residential layout known as “Bhagyanagar” of Tangellamudi Village, Eluru Mandal, West Godavari District, and if the grievance is genuine, and the verification conducted by him proved that there are encroachments, the District Panchayat Officer, Eluru, West Godavari District (4th respondent) shall direct Panchayat Secretary to take appropriate course of action, as warranted by law, after putting the concerned persons on notice and after affording due opportunity. If there are no encroachments, the District Panchayat Officer shall direct the Panchayat Secretary to immediately take steps to protect the open spaces which vest in the Gram Panchayat. 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: 29th July, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.23469 of 2015

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Date: 29th July, 2015

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