

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.15917 of 2015

Dated : 08.06.2015

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Between:

K. Polaiah, S/o.Late Ramalingaiah,

Caste : SC, Aged 50 yrs,

R/o.East Guduru Village,

Nellore District, Andhra Pradesh & 7 others

.. Petitioners

And

The State of Andhra Pradesh,

Rep., by the Principal Secretary to the Municipal Dept.,

Secretariat, Hyderabad & 3 others

.. Respondents

This Court made the following :

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ORDER :

The petitioners claim to be residents of East Guduru Village, Nellore District. They were allotted agricultural lands in the year 1979 to an extent of Ac.9.22 guntas in Survey No.966 and 967 of the said village. Ever since the petitioners are in possession and cultivating the lands to eke out their living. While so, the 3rd respondent-Municipality is dumping the waste in the fields, which were assigned to the petitioners causing lot of hardship and suffering to the petitioners. However, the petitioners without complaining to any competent authority i.e., the District Collector or the Commissioner, Municipality, straight away filed this writ petition, complaining that the Municipality is dumping the garbage waste in the lands assigned to the

petitioners.

2. The extra-ordinary remedy under Article 226 of the Constitution of India is available only when even after specific complaint is made there was deliberate or willful inaction on the part of the competent authority in redressing the grievance of the citizen, inspite of informing to the competent authority of the illegality committed by the subordinates or others and such illegality continues to be perpetrated without attending to the Grievance. Ordinarily in such situations only, the writ Court entertains the writ petition and grants appropriate direction as warranted by law.

3. In the instant case, the allegation is dumping of garbage in the lands assigned to petitioners. No such dumping can be made without following due process of law. Thus, it needs to be established that dumping is taking place on the lands assigned to petitioners. Admittedly, no grievance was raised before the competent authority on this issue and therefore, the writ in the present form is premature and is not maintainable on that ground. However, while dismissing the writ petition, liberty is granted to the petitioners to submit detailed representations to the District Collector, Nellore as well as to the Commissioner, Gudur Municipality ventilating their grievance of dumping of garbage in the agricultural lands assigned to the petitioners, and as and when such representations are received, the District Collector as well as Commissioner, Gudur, shall consider the same and pass orders within a period of two (2) weeks from the date of submission of such representations. There shall be no order as to costs.

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

P.NAVEEN RAO,J

8th June, 2015

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