

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

WRIT PETITION No.24434 of 2015

Between:

Chirumamilla Madhu,
S/o. Ch. Kotaiah, Aged 53 years,
Occ: Business, R/o. H.No.3-8-442/8,
Road No.1, Suryodayanagar Colony,
L.B. Nagar, Hyderabad.

.. Petitioner

AND

The State of Telangana,
Rep. by its Principal Secretary to Government,
Municipal Administration and
Urban Development Department,
Secretariat Buildings,
Hyderabad – 500 022 & 3 others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 05.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.24434 of 2015

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ORDER:

The petitioner claims to be the owner and in possession of Plot bearing No.24, admeasuring 169 square yards in Survey No.30, Ward No.3, Block No.14, situated at Vivekananda Nagar, Mansoorabad, within the Greater Hyderabad Municipal Corporation L.B. Nagar Circle-III, Saroor Nagar Mandal, Ranga Reddy District. The petitioner claims to have purchased the said property on 19.03.2015 vide registered Sale Deed bearing Document No.1358 of 2015. The petitioner claims that on 10.06.2015, he has applied for permission to allot a house number to his property and the same is pending. He states that there was a small semi-finished room in the said plot at the time of his purchase and after the purchase, he has fixed a door and window to the said room, obtained electricity connection on 30.03.2015 and water and sewerage connection from the Hyderabad Metropolitan Water Supply and Sewerage Board on 08.06.2015 and obtained membership from the Vivekananda Nagar Colony Resident's Welfare Association on 14.06.2015. In fact, he is elected as Vice President of the said association. While so, notice under Sections 452(1) and 461(1) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act'), was affixed on the AC sheet room on 12.06.2015. The notice alleges construction of AC sheet room and fencing

unauthorizedly. The petitioner claims to have submitted explanation on 19.06.2015. Though explanation was received, without considering the same, notice under Section 452(2) of the Act was issued on 22.06.2015 alleging that no reply was furnished to the earlier notice, dated 12.06.2015, and directed the petitioner to remove and pull down the unauthorized construction. Though the petitioner personally brought to the notice of submission of explanation on 19.06.2015, the same was ignored and notice under Section 636 of the Act was issued on 26.06.2015 and on 27.06.2015, the officials of the respondent Corporation demolished the AC sheet room high-handedly.

2. This writ petition is instituted praying for a declaration that the action of the 2nd respondent in demolishing the AC sheet room of the petitioner without following the due process of law as illegal and further direction to consider the application of the petitioner, dated 10.06.2015, for allotment of house number.

3. The material enclosed to the writ affidavit would disclose that notices as mandated by Sections 452(1), 461(1), 452(2) and 636 of the Act were issued and after observing the due process only, the demolition was made. Thus, it cannot be said that without following the due process, the demolition was made. If it is the case of the petitioner that even though he has submitted his explanation against notice under Section 452(1) of the Act, he ought to have challenged the said notices issued, but the same are not under challenge, but only a

declaration is sought as referred to above. Further more, the petitioner relies on the application submitted by him on 10.06.2015 to contend that when such application is pending, the question of demolition does not arise. As fairly stated by the learned counsel for the petitioner that no building permission application was submitted by the vendor of the petitioner nor by the petitioner and even now no such building permission application is pending. The only application that is pending is to grant municipal number to the said premises. Since the building permission application is not made and due process was followed in demolishing the structure, it cannot be said that the respondent Corporation acted illegally in demolishing the structure and it cannot be said that the respondent Corporation acted illegally in not granting the house number as requested since no house number can be allotted when due process was not observed in constructing the house. Thus, I cannot see any error in demolition of the subject premises warranting interference by this Court.

4. Accordingly, the Writ Petition is dismissed. However, it is open to the petitioner to submit the building permission application and as and when such an application is filed, the same shall be duly considered and appropriate orders be passed. The dismissal of this order does not come in the way of making such application and consideration thereof. 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: 5th August, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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