

**MONDAY, THE TWENTY NINTH DAY OF JUNE TWO  
THOUSAND AND FIFTEEN**

**HON'BLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION No.16214 of 2015**

N. Appa Rao, S/o. Rammurthy,  
Aged 66 years, Occ: Cultivation,  
R/o. D.No.13-45-63, Nakka Street,  
Srikakulam Town & District & 9 others

## .. Petitioners

AND

Srikakulam Municipality,  
Rep. by its Commissioner,  
Srikakulam Municipality,  
Srikakulam Town & District – 532 001 & 2 others

## .. Respondents

**The Court made the following:**

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**ORDER:**

With the consent of the learned counsel for the petitioners, Sri Venkateshwarlu Nimmagadda, learned Standing Counsel for the 1<sup>st</sup> respondent and the learned Government Pleader for Municipal Administration for respondents 2 and 3, this writ petition is disposed of at the admission stage.

2. The petitioners claim to be the owners of the land in T.S.No.358, R.S.No.309/1, in Srikakulam Town. The petitioners further claim that their predecessors and some others were the co-owners of the land in the above T.S. number to an extent of Ac. 11.64 cents in addition to the other properties possessed by them in Srikakulam Town. According to the petitioners, land to an extent of Ac. 3.32 cents in T.S.No.358, R.S.No.309/1, near Zilla Parishad Office was given to the Srikakulam Municipality. The regular Sale Deed was executed on 24.06.1957. When the petitioners applied to the Tahsildar, Srikakulam Rural, to issue No Objection Certificate for sale of the remaining land in their possession, the No Objection Certificate was issued on 18.10.2010 informing them that it was not an assigned land or surplus land under the Urban Land (Ceiling and Regulation) Act, 1976. The petitioners further averred that several representations were submitted by the

petitioners to the Tahsildar, Srikakulam Rural, to survey the land and fix the boundaries for the above land. A representation was also submitted to the respondent Municipality to fix the boundaries to the extent of land purchased by them. In spite of such request, so far the boundaries are not fixed and on account of the illegal action of the respondent Municipality in not fixing the boundaries of the land purchased by them, grave prejudice is caused to the petitioners in enjoying the property owned and possessed by them. Praying for a declaration that the action of the first respondent in not coming forward to demarcate the land purchased by the respondent Municipality as arbitrary and illegal and violative of Article 300-A of the Constitution of India and a further direction not to encroach upon the rest of the land to an extent of Ac. 3.32 cents in the above survey number, this writ petition is filed.

3. As seen from the averments made in the affidavit filed in support of the writ petition and the documents enclosed to the writ petition, it appears that the total extent of land in the T.S.No.358, R.S.No.309/1 of Srikakulam Municipality limits was Ac. 11.64 cents, out of which Ac. 3.32 cents was sold to the respondent Municipality as early as on 24.06.1957. It is also not clear as to how that boundary dispute has arisen between the petitioners and the respondent Municipality and why such a dispute is not resolved even after 55 years of such purchase. Obviously, from the reading of the averments in the affidavit, there is a dispute regarding the boundaries in the extent of land owned by the petitioners and the respondent Municipality. When there is a serious dispute regarding the extent of land owned and the area owned by the respondent Municipality as well as the petitioners, such dispute cannot be adjudicated in exercise of writ jurisdiction by this Court under Article 226 of the Constitution of India. Who is in possession of the rest of

the land after excluding land purchased by Municipality and whether there are any other claims cannot be gone into in this writ petition. It is not a case where the statutory authority failed to exercise its powers or there is inordinate delay in exercising its powers and attending to a grievance of an individual with reference to the functioning of the Municipality. In the instant case, it is a civil dispute regarding the ownership and boundaries of the properties respectively owned. Such issues have to be agitated before competent civil Court. Though the learned counsel for the petitioner also submitted that when there is a serious dispute, it is incumbent on the Municipality to conduct survey and demarcate the boundaries, since the dispute is between the petitioners and the respondent Municipality, including the issue of conducting of Town Survey demarcation, the same can be agitated before appropriate Court. Hence, I am not inclined to entertain the writ petition.

4. Accordingly, the Writ Petition is dismissed leaving it open to the petitioners to work out their remedies as available in law. 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: 29<sup>th</sup> June, 2015

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**HON'BLE SRI JUSTICE P.NAVEEN RAO**

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