

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

CASE NO.WRIT PETITION No.22721 of 2015

Between:

K. Lakshmi Durga, W/o.K.V. Vara Prasad,
Flat No.102, Lakshmivilla Apartments,
Yendada, Visakhapatnam.

.. Petitioner

AND

State of Andhra Pradesh,
Rep. by its Principal Secretary,
Municipal Administration Department,
Secretariat, Hyderabad & 2 others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 22.07.2015

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? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.22721 of 2015

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ORDER:

The petitioner claims to have purchased property to an extent of 612 square yards in Survey Nos.3, 4 and 7/1, situated at Plot No.8, Yendada Village, Visakhapatnam. After obtaining due permission, a multi-storeyed residential complex was constructed bearing the name as 'Sri Lakshmi Villa'. Stilt plus ground plus four upper floors were constructed. While so, Flat No.102 of Ground Floor, which was purchased by the petitioner on 10.06.2013, gave it on lease to the State Bank of India for its banking operations. Alleging that illegally commercial activity is permitted in the residential building, the impugned notice is issued to the petitioner directing him to restore the usage of ground floor within seven days. Challenging the same, this writ petition is filed.

2. Apart from various other contentions raised, the very ground urged against the said impugned proceedings is that the petitioner was not put on notice and was not given opportunity of hearing before taking the extreme course of directing the petitioner to restore the possession of the ground floor as residential accommodation.

3. Learned Standing Counsel submits that a resident of the residential complex filed W.P.No.11529 of 2015 alleging that illegally the residential apartments are converted into commercial and leased out to establish branch of the State Bank of India. This

Court disposed of the said writ petition directing to take appropriate course of action, as warranted by law, and in compliance of the said directions only, the impugned proceedings are issued.

4. On a reading of the notice impugned in the writ petition, it appears that no prior notice was served on the petitioner calling upon the petitioner to explain as to how a portion of the building was converted into commercial activity without due permissions, but straight away the order is passed. The order results in severe civil and evil consequences. The petitioner has leased out the premises to the State Bank of India and the State Bank of India has commenced its operations. The removal of the commercial operations and restoring the premises to residential would certainly result in civil and evil consequences. No order which results in civil and evil consequences can be made without following the due process of law.

5. Having regard to the above, the Writ Petition is disposed of as under:

The proceedings which are signed on 01.07.2015 impugned in this writ petition be treated as notice and the petitioner shall submit his explanation within a period of ten days from today and on receipt of the said explanation, the respondent Corporation shall consider the same and pass appropriate orders, as warranted by law, within a period of two (2) weeks thereafter. Until the decision is taken as above, no coercive action shall be taken against the petitioner.

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: 22nd July, 2015

Note: Issue C.C. by one (1) week.

(B/o.)
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HON’BLE SRI JUSTICE P.NAVEEN RAO

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