

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

FRIDAY, THE TWELFTH DAY OF JUNE TWO THOUSAND AND FIFTEEN

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

-

WRIT PETITION No.16520 of 2015

Between:

Mohammed Razaq,
S/o. Sarvar, Aged about 40 years,
Occ: Business,
R/o.H.No.5-12-187, Gajulapet,
Nirmal, Adilabad District.

.. Petitioner

AND

The State of Telangana,
Rep. by its Principal Secretary,
Municipal Administration Department,
Secretariat Buildings,
Hyderabad & 3 others

.. Respondents

WRIT PETITION No.16520 of 2015

With the consent of the learned counsel for the petitioner, the learned Government Pleader for Municipal Administration for respondents 1 and 2 and Sri N. Praveen Kumar, learned Standing Counsel for the 3rd respondent, this

writ petition is disposed of at the admission stage.

2. The petitioner intended construction of building with ground plus one floor in H.No.6-6-21/1 at Nirmal, Adilabad District. On the application submitted by the petitioner for construction of a residential building, the petitioner was granted permission 12.05.2015. Accordingly, the petitioner commenced construction work. Meanwhile, the Commissioner of the respondent Municipality received complaints alleging that civil dispute is pending and a decree was passed by the Senior Civil Judge at Nirmal in O.S.No.3 of 1998 and the aggrieved preferred appeal. The said appeal is pending before the District and Sessions Judge at Adilabad. The show cause notice was issued on 01.06.2015 and on consideration of the explanation submitted by the petitioner, orders are passed on 05.06.2015 cancelling the building permission earlier granted. Aggrieved thereby, this writ petition is instituted.

3. When the matter is taken up for consideration, the learned Standing Counsel for the respondent Municipality submitted that the order impugned in the writ petition is passed in exercise of power vested in Section 344 of the Andhra Pradesh Municipalities Act, 1965 (for short, 'the Act'), and against the said decision, appeal shall lie to the Municipal Council under Section 345 of the Act and without exhausting the said remedy of appeal, the writ petition is not maintainable.

4. In view of the statutory right of appeal vested in the petitioner under Section 345 of the Act, the petitioner ought to have exhausted the said remedy before invoking the jurisdiction of this Court. The petitioner has not disclosed the reasons for invoking the jurisdiction of this Court directly without exhausting the remedy of appeal and on the contrary, he declared that there is no alternative remedy available to him.

5. Having regard to the fact that an alternative and efficacious remedy is available to the petitioner against the decision of the Commissioner, Nirmal

Municipality, impugned in this writ petition, the Writ Petition is dismissed leaving it open to the petitioner to avail the remedy of appeal. Having regard to the fact that building permission was granted to the petitioner earlier and the petitioner claims to have commenced the construction work, till the disposal of the appeal by the appellate authority, the petitioner as well as the respondent Municipality shall maintain *status quo* with reference to the construction of the building obtaining as on today. As and when such an appeal is filed, the Municipal Council shall dispose of the said appeal, as expeditiously as possible, preferably within a period of two (2) months. 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: 12th June, 2015

KL

HON'BLE SRI JUSTICE P.NAVEEN RAO

-

WRIT PETITION No.16520 of 2015

-

Date: 12th June, 2015

KL