

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

**FRIDAY, THE TWENTY EIGHTH DAY OF AUGUST TWO
THOUSAND AND FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.27564 of 2015

Between:

P. Suseela, W/o. B. Aron,
Hindu, Aged about 45 years,
Occ: House wife, R/o. H.No.12/441,
Kalugotla Road, Harijana Colony,
Yemmiganur – 518 360.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Municipal Administration Department,
Andhra Pradesh Secretariat,
Hyderabad & 4 others

.. Respondents

The Court made the following:

-

-

-

-

-

-

-

-

-
-
HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.27564 of 2015

-
ORDER:

With the consent of the learned counsel for the petitioner, the learned Government Pleader for Municipality for the 1st respondent, learned Standing Counsel for respondents 2 and 3 and the learned Government Pleader for the 5th respondent, this writ petition is disposed of at the admission stage.

2. According to the petitioner, the 5th respondent was issued a house patta for construction of a house in Plot No.221 in Survey No.212 of Yemmiganur Town, Kurnool District, vide proceedings bearing Rc.A.No.497/2004, dated 03.02.2004, in favour of the husband of the petitioner. Initially, a thatched hut was constructed and they have been living in the said thatched hut. They were also granted municipal house number bearing No.12/441 to the said thatched house and they have been paying regular property taxes. On 22.05.2014, the husband of the petitioner executed a Gift Deed in favour of the petitioner. The petitioner obtained building permission on 06.11.2014 and in accordance with the building permission granted, when the petitioner started construction, it appears that based on some objections raised, the municipal authorities are

interfering in continuation of the construction. Aggrieved by the said illegal interference, this writ petition is filed.

3. Learned counsel for the petitioner contends that when valid building permission is granted to the petitioner and is in force, it is not permissible for the respondent Municipal authority to interfere and stop construction and such action is *ex facie* illegal.

4. On instructions, learned Standing Counsel submits that there were complaints on the allegation that the petitioner is undertaking construction of house in Survey No. 211, but not in 212 as claimed. Therefore, a survey was conducted by the Mandal Surveyor and the survey report suggests that the land on which the petitioner intend to construct has obtained building permission is not in Survey No.212, but in Survey No.211. As fairly submitted by the learned Standing Counsel, so far no notice is issued to the petitioner and the building permission granted to her was not cancelled. Without taking proper course in accordance with the law, the respondent authorities cannot interfere with the construction of the building as they sought to be done. It may be true that the survey was conducted in the presence of the petitioner and that the survey report indicates that the piece of land on which the house is being constructed is in Survey No.211 and not in Survey No.212. However, the petitioner is entitled to be put on notice on the contents of the report of the Mandal Surveyor and he is entitled to contest the said report. Such a course can be available only when a notice is served on the petitioner with supporting

documents. Without taking proper course of action, as warranted by law, the respondent Municipality cannot interfere with construction and such action is *ex facie* illegal.

5. Having regard to the statement made by the learned Standing Counsel that there are certain objections and the survey conducted indicates that the land is not in Survey No.212, but in Survey No.211, it is for the 2nd respondent Municipality to take further course of action, as warranted by law. In the event of the 2nd respondent Municipality intending to cancel the earlier building permission granted, they have to follow the due process of law by putting the petitioner on notice and supplying all the relevant documents, which are the basis for taking such course and after affording due opportunity of hearing and opportunity to file her explanation, appropriate order as per law can be passed. Until such course of action can be taken, the 2nd respondent Municipality cannot interfere with the possession and enjoyment of the property by the petitioner. However, in view of the serious objection raised by the 2nd respondent Municipality, the petitioner is directed not to undertake further construction, provided the 2nd respondent Municipality takes up the matter by issuing a notice to the petitioner within a period of one (1) week from the date of receipt of copy of this order and in such an event, the 2nd respondent Municipality shall complete the entire exercise and pass final orders within a further period of three

(3) weeks.

6. With the above observations, the Writ Petition is disposed of. 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: 28th August, 2015

KL



HON'BLE SRI JUSTICE P.NAVEEN RAO

-
-
-
-
-

-
-
-
-
-
-

-
-
-
-

-
-
-
-
-
-
-
-
-
-

WRIT PETITION No.27564 of 2015

-

Date: 28th August, 2015

KL