

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.33915 of 2015

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Between:

G.Seshadri

.. Petitioner

and

The State of Telangana, rep.by its Principal Secretary, Municipal Administration Department, Secretariat, Hyderabad and three others.

.. Respondents

This Court made the following:-

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

The petitioner is aggrieved by notice dated 08.09.2015 of the respondent Municipal Corporation directing him to remove iron grill at Flat No.421, Chippendale

Apartments, Musheerabad, Hyderabad on the ground that it was erected illegally and that it is obstructing the passage and restricting access to kitchen window of one B.Uma Shankar – respondent No.4. The said notice was issued on a complaint lodged by respondent No.4.

2. The petitioner submitted explanation to the respondent Municipal Corporation on 16.09.2015. Along with the explanation, he has also enclosed copies of the sale deed dated 10.09.2012 and the decree passed in O.S.No.931 of 2013 on the file of the X Junior civil Judge, City Civil Court, Hyderabad.

3. The petitioner challenges the said notice on the ground that since a decree was passed in his favour by a competent Court, the notice is not maintainable.

4. According to the learned counsel for the petitioner, the suit was decreed in favour of the petitioner. The Association of the flat owners of the subject premises was the defendant. The defendant did not choose to contest the suit and the suit was decreed as prayed for. Being member of the Association, it is not open to respondent No.4 to raise the same grievance again having lost the suit before the competent Court.

5. As seen from the notice issued, it appears that the respondent Municipal Corporation was not aware of the decree passed in favour of the petitioner. Whenever a complaint is filed, it is permissible for the competent authority to initiate proceedings against the alleged illegal construction or obstruction made by any person. In pursuance of the notice, since the petitioner has filed his explanation duly enclosing the copies of sale deed and the decree, it cannot be said that the respondent Municipal Corporation would not consider the said explanation taking due note of the decree passed in favour of the petitioner. Thus, at this stage, the relief sought for by the petitioner cannot be granted.

6. However, having regard to the fact that the explanation was already submitted by the petitioner, the respondent Municipal Corporation is directed to consider the same

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DATE: 13.10.2015

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