

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

**WEDNESDAY, THE SIXTEENTH DAY OF SEPTEMBER TWO
THOUSAND AND FIFTEEN**

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Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

–
WRIT PETITION No.30231 of 2015

Between:

Smt. V. Subba Laxmi,
W/o. V.V. Naga Ramesh Babu,
Aged 36 years, Occ: Household,
R/o. H.No.13-97, Tulasinagar,
Kanuru (V), Penamaluru (M),
Krishna District.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by Principal Secretary,
Panchayat Raj and Rural Development
Department, Secretariat,
Hyderabad & 3 others

.. Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Alleging that the petitioner is indulging in illegal construction contrary to the rules and procedures, notice under Section 115(1) and (2) of the Andhra Pradesh Capital Region Development Authority Act, 2014 (for short, 'the Act') was issued to the petitioner by the Zonal Assistant Director, Andhra Pradesh Capital Region Development Authority, Vijayawada, on Nil August, 2015 (sent on 02.09.2015) directing the petitioner to submit explanation. On the same day, another notice under Section 116(1) of the Act was issued to the petitioner directing her to stop further construction. Challenging the said notices, the petitioner filed this writ petition.

2. The petitioner challenges the action of the respondent authority in straight away directing the petitioner to remove the illegal construction made and to stop further construction.

3. Admittedly, the petitioner has not filed her explanation to the show cause notice issued to her. No explanation is forthcoming as to why the petitioner has not responded to the notice issued to her. The notice is issued in exercise of power vested in the respondent authority under Sections 115 and 116 of the Act. Thus, it cannot be said that the respondent authority is not competent to issue such notice. Therefore, the writ petition in the present form is not maintainable and it is liable to be dismissed on that ground alone. At this stage, learned counsel for the petitioner submits that the petitioner would be advised to file explanation to

the show cause notice, but the respondent authority cannot take steps to demolish the constructions made without first considering the explanation and passing final orders.

4. As seen from the provision contained in Sections 115 and 116 of the Act, it is competent for the respondent authority to direct the person concerned to stop making further construction, pending consideration of the issue. Such power is traceable to Section 116(2) of the Act.

5. While holding the power of the respondent authority in issuing notice to the petitioner, the Writ Petition is disposed of directing the petitioner to file explanation to the show cause notice within a period of two (2) weeks from the date of receipt of copy of this order and on submission of explanation, the respondent authority shall consider the same and pass appropriate orders, as warranted by law, within a further period of three (3) weeks. It is made clear that the petitioner shall not make further construction until the issue is finally decided by the respondent authority. 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: 16th September, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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