

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.3230 of 2014

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Dated 23rd November, 2015

Between:

Smt.P.Suseelamma

...Petitioner

And

Government of Andhra Pradesh, rep.by its Principal Secretary, Municipal
Admn.Department, Secretariat, Hyderabad and others

...Respondents

Counsel for the petitioner: Sri A.Jaya Shankara Reddy

Counsel for respondent No.1: AGP for Municipal Administration (AP)

Counsel for respondent No.2: Sri Md.Saleem

Counsel for respondent Nos.3 & 4: Sri A.Giridhar Rao

The Court made the following:

ORDER:

The inaction of respondent No.2-Municipality in responding to the petitioner's grievance against the illegal construction carried on by respondent Nos.3 and 4 is questioned in this writ petition.

It is unnecessary to refer to the facts in detail, for, respondent Nos.3 and 4 have not disputed construction of a building unauthorisedly. They have, however, stated that they have sold away the property to a third party.

As regards respondent No.2, she has candidly admitted of noticing that respondent Nos.3 and 4 were raising unauthorised constructions and stated in her counter affidavit that notices, dated 29.10.2012 and 12.11.2012, were issued under Section 228(1) and (2) of the A.P.Municipalities Act, 1965. It is further averred in her counter affidavit that thereafter respondent No.4 has resumed illegal construction in the month of November, 2013 leading to respondent No.2 issuing a fresh notice and filing charge sheet on 31.01.2014 in the Court of the learned Judicial Magistrate of First Class, Guntakal. Respondent No.2 has accordingly denied the allegation of the petitioner that she has not taken action against the illegal constructions of respondent Nos.3 and 4.

From the tenor of the counter affidavit filed by respondent No.2, it appears that she is labouring under the misnomer that mere stoppage of illegal construction without proceeding further for demolishing them is the only job of the Municipality. The counter affidavit has not explained the reason for the failure of respondent No.2 to remove the illegal constructions. It is not her pleaded case that respondent Nos.3 and 4 or their successors-in-interest have approached the competent Court of law preventing her from taking further action. When the constructions were found per se illegal, it is the duty and obligation of respondent No.2 to ensure that such constructions are removed by following due process of law without loss of time.

In the light of the above facts and circumstances of the case, respondent No.2 is directed to take immediate action for removal of the unauthorised constructions by following due process of law and informing the petitioner about the same within two months from the date of receipt of a copy of this order.

Subject to the above directions, the writ petition is allowed.

As a sequel to disposal of the writ petition, WP.M.P.No.3973 of 2014 and WV.M.P.No.234 of 2015 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

23rd November, 2015

VGB