

**THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION NO.37057 of 2014**

**DATED : 26.08.2015**

Between :

Kotha Ravi S/o.K. Narsimha,  
Aged about 35 yrs, R/o.H.No.25-10-243,  
Bapujinagar, Kazipet, Warangal District.

.. Petitioner

and

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

.. Respondents

This court made the following :

**THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

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**WRIT PETITION No.37057 of 2014**

**ORDER :**

The petitioner claims to be a resident of Bapujinagar, Kazipet, Warangal District. This writ petition is instituted alleging that the 4<sup>th</sup> respondent is undertaking construction of Church in Sy.No.57, Kadipikonda Sivaru, Kazipet, Warangal District, which is very near to his house and construction of such Church would cause serious problems to him and his neighbours. It is further alleged that such construction is taking place without building permission from the Municipal Corporation and therefore, it is unauthorized and illegal construction. In spite of several requests, made to the 4<sup>th</sup> respondent to stop the illegal construction, the 4<sup>th</sup> respondent did not heed and going ahead with construction. Aggrieved by the deliberate inaction on the part of the respondent-Municipal Corporation, in spite of bringing to their notice of such illegal action and allowing construction, on the land, which according to the petitioner belongs to Government this writ petition is filed.

2. This Court by order dated 03.12.2014, granted interim direction, as sought for.

3. Praying to vacate the said interim order, the 4<sup>th</sup> respondent filed W.V.M.P.No.3943 of 2014. Counter affidavit is filed on behalf of the respondent-Corporation.

4. Heard learned counsel for the petitioner, learned Standing Counsel appearing for Respondents 2 and 3 and learned counsel for the 4<sup>th</sup> respondent and with their consent, this writ petition is disposed of.

5. Learned counsel for the petitioner contends that illegally the 4<sup>th</sup> respondent is undertaking construction and construction of Church in the existing place may create disharmony among the people living in the locality and the same is not conducive for peace and good living. He further submits that the land on which the construction is proposed, stands in Sy.No.57 and that survey number belongs to the Government. On a Government land, no such construction can take place. He further submits that, as averred by the respondent-Municipal Corporation, in the counter affidavit, no permission was obtained for construction and therefore, the same is illegal.

6. Learned counsel for the 4<sup>th</sup> respondent submits that this Church is

in existence for more than 100 years. After obtaining due permission from then Nizam Government, the Church was constructed as early as in the year 1887 and the Church stands in Sy.No.55 of the concerned village. Learned counsel denied the contention of the petitioner that the proposed Church is being constructed in Sy.No.57 and he placed reliance on various orders and decisions to say that the land belongs to the Church and there is no illegal encroachment by the Church on to the Government land. He further submits that the Church is in existence for more than 100 years and at no point of time, any inconvenience is caused to any person. In fact the petitioner is not living in the vicinity of the Church and he has no locus standi to question construction of Church. He further submits that since the Church building has become old and dilapidated, a decision was taken to demolish the building and to undertake construction of new building. Accordingly, with the consent of the concerned authorities construction of new building was commenced. However, learned counsel fairly submits that the 4<sup>th</sup> respondent would be advised to apply for building permission to the respondent-Corporation and to commence construction of Church building only after due permission was obtained.

7. Relying on the averments of the counter affidavit, learned Standing Counsel submits that as seen from the records, no building permission was obtained for construction of Church building and in fact no permission was obtained to remove the old building. According to the provisions of Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the GHMC Act'), it is mandatory to obtain prior permission even to demolish the existing building and to undertake construction of new building. Having noticed that illegal construction being taken up by the 4<sup>th</sup> respondent, notice under Section 452 (1) of the GHMC Act, was issued on 08.10.2014 and notice under Section 452 (2) of the GHMC Act, was issued on 24.10.2014 and though further action was contemplated, no action was taken since this writ petition is filed.

8. Whether the land belongs to the 4<sup>th</sup> respondent or is a Government land, whether the Church was situated in Sy.Nos.55 or 57 are disputed questions of fact and are matters between the 4<sup>th</sup> respondent and the Revenue authorities.

9. It is for the concerned Revenue authorities to look into the issue

and if it is found that the land belongs to the Government, it is for them to take appropriate action to protect Government land. In so far as the petitioner is concerned, he cannot answer the description of person aggrieved, can have no individual grievance with reference to the status of the land. If he intends to espouse cause of general public and to protect public interest he has to avail appropriate remedy as warranted by law.

10. Having regard to the fact that the Church was existing at the same place for more than a century and that the new Church building is proposed only by demolishing old building, it cannot be said that 4<sup>th</sup> respondent cannot construct new building. Undertaking such construction cannot take away the competency of authorities to assert that land belongs to Government by due process.

11. The learned counsel for the 4<sup>th</sup> respondent has fairly stated that he would advise the 4<sup>th</sup> respondent to apply for building permission and to undertake construction of new Church building, only after obtaining due permission.

12. The interim order dated 03.12.2014 is vacated and Writ Petition is disposed of, directing the 4<sup>th</sup> respondent to apply for building permission to the 2<sup>nd</sup> respondent and shall commence construction of new Church building only after obtaining due permission from the 2<sup>nd</sup> respondent. It is further directed that the 4<sup>th</sup> respondent shall not undertake any construction activity till such permission is granted. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

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26<sup>th</sup> August, 2015.  
Rds

**P.NAVEEN RAO,J**