

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.16966 of 2015

Dated : 15.06.2015

-

Between:

Moragudi Anantha Padmanabha Reddy,
S/o. Jayaprasada Reddy, Aged about 35 yrs,
Occu : Agriculture, R/o.H.No.25/419/A/4/1,
Saleem Nagar, Nandyal Town and Mandal,
Kurnool District, Andhra Pradesh-518 501.

.. Petitioner

And

The State of Andhra Pradesh,
rep., by its Principal Secretary,
Municipal Administration and Urban Development,
Secretariat Buildings, Hyderabad & 3 others

.. Respondents

This Court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.16966 of 2015

-

ORDER :

The petitioner claims to be a native of Saleem Nagar, Nandyal Town and Mandal, Kurnool District. The grievance of the petitioner is that across the road, opposite to his house, the owner of the property is constructing a house in deviation to the sanction plan which would adversely affect the petitioner. Therefore, the petitioner instituted O.S.No.59 of 2015 on the file of Principal Junior Civil Judge,

Nandyal, seeking for permanent injunction restraining the 1st defendant therein (4th respondent herein) from making any further constructions and to direct the 2nd defendant (Nandyal Municipality-2nd respondent herein) to remove the illegal constructions made by the 1st defendant. The said suit is pending consideration of the trial court. The petitioner also filed I.A.No.224 of 2015 seeking ad interim injunction. The trial court ordered notice. The petitioner contends that the I.A., could not be taken up since the notice was not served and on the contrary the 4th respondent is undertaking construction of the building without observing the set backs from the main road as required. He therefore, institutes this writ petition.

2. As specifically averred by the petitioner in the affidavit filed in support of the writ petition, on the same subject the petitioner has instituted O.S.No.59 of 2015. The petitioner has also filed an Interlocutory application pending disposal of the suit and the said I.A., is pending. Thus, when the Principal Junior Civil Judge, Nandyal is dealing with the subject matter, this Writ Petition is not maintainable as the extraordinary remedy under Article 226 of the Constitution of India is available only in cases where there is no alternative efficacious remedy available and due to inaction and deliberate illegal action of the authorities concerned, the writ can be issued by this Court. In the instant case the petitioner having availed the civil remedy and when the suit is pending, he cannot invoke the jurisdiction of this Court seeking the same relief. The petitioner cannot be treated as a person without any remedy, even if no orders are passed by the trial Court.

3. Accordingly, the writ petition is dismissed leaving it open to the petitioner to prosecute O.S.No.59 of 2015. There shall be no order as to costs.

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

P.NAVEEN RAO,J

15th June, 2015

Rds

