

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.30497 of 2015

DATED : 16.09.2015

Between :

Karanam Sudheer Kumar S/o.Narayana,
Aged about 42 yrs, Occu : Business,
R/o.D.No.8-58/1, Near Gram Panchayat Office,
Kondapally, Krishna District.

.. Petitioner

and

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

.. Respondents

This court made the following :

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ORDER :

The petitioner claims to be the owner of land to an extent of 675 Square yards in R.S.No.306/5 of Kondapally Gram Panchayat, Ibrahimpatnam Mandal, Krishna District. The petitioner claims to have obtained building permission on 07.03.2014 for construction of building consisting of stilt, ground and two upper floors in an area to an extent of 298.30 Square meters. The petitioner also claims that his wife has also obtained building permission on 01.03.2014 for construction of similar extent of building in an area of 268.37 Square meters. The petitioner was served with notices dated 02.09.2015. The first notice is issued under Section 115 (3) of the Andhra Pradesh Capital Region Development Authority Act, 2014 (for short 'the Act, 2014') calling upon the petitioner as to why, action should not be taken on the allegation of unauthorized/illegal structures made by him, granting him seven days time for filing explanation. By another notice under Section 116 (1) of the Act, 2014, the petitioner was directed not to undertake any further construction pending consideration of the matter.

2. Learned counsel for the petitioner submits that the petitioner has filed his explanation on 14.09.2015 and the same is pending consideration of the authorities. However, without considering the said explanation and without passing orders, the respondent authorities are taking steps to demolish the structures already made and creating obstacles in making internal works. Learned counsel for the petitioner also submits that the petitioner has applied for regularization of the alleged illegal constructions made by him, under the scheme launched by the State Government vide G.O.Ms.No.128 dated 22.05.2015 and the respondent authorities shall also take into consideration the issue of pendency of the regularization application filed by the petitioner before the competent authority.

3. Under Section 115 & 116 of the Act, 2014, power is available to the authority to initiate proceedings on any unauthorized/illegal constructions made by a person who obtained building permission or without obtaining building permission. While initiating action in accordance with Section 115 of the Act, 2014, power is also vested in the authority under Section 116 of the Act, 2014 directing the owner of the building or the person in possession undertaking construction, not to undertake further construction, pending consideration of the issue. Thus, it cannot be said that the said show cause notice is issued to the petitioner without any jurisdiction and competence, warranting interference by this Court and the writ is liable to be dismissed.

4. However, as the learned counsel for the petitioner apprehends that there is a threat of demolition of the structures already made, the respondent authorities are directed to consider the explanation submitted by the petitioner on 14.09.2015 and pass appropriate orders as warranted by law. Pending consideration of the said explanation, no coercive steps shall be taken against the petitioner by the respondent authorities. The petitioner is also directed not to undertake any further development activity in the subject property including internal works and an affidavit to this extent shall be filed by the petitioner on 21.09.2015 before the competent authority. The writ petition is disposed of. There shall be no order as to costs.

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

P.NAVEEN RAO,J

16th September, 2015.
Note : Issue c.c., by 18.09.2015
B/o.
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