

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

**THURSDAY, THE TWENTY NINTH DAY OF OCTOBER TWO
THOUSAND AND FIFTEEN**

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Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.34825 of 2015

Between:

Sri Kanna Raju, S/o. Narsaiah,
Aged about 57 years, Occ: Business,
R/o. H.No.4-3-216/7A,
Narasimha Nagar, Bhainsa Mandal,
Adilabad District & 3 others.

.. Petitioners

AND

The State of Telangana,
Rep. by its Prl. Secretary,
Municipal Administration Department,
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:

The petitioners claim to be the owners and in possession of land to an extent of Ac. 1.39 guntas in Survey No.217/1/9 having purchased the same through a registered Sale Deed, dated 17.11.2006, from the then Government of Andhra Pradesh. While so, the petitioners were served with notice, dated 14.10.2010, directing them to remove the encroachments made by them within three days. The notice alleges that complaint was received by the District Collector alleging that the petitioners have encroached the layout place and on ground inspection, it was found that the petitioners have encroached the layout place in L.P.No.52/1970 contrary to the provisions of the Andhra Pradesh Municipalities Act, 1965.

2. Learned counsel for the petitioners contends that very short time was given to the petitioners directing them to remove the encroachments and no prior opportunity was given to the petitioners to give explanation. It is termed as notice, but it is in the form of an order having come to a conclusion that the petitioners are in encroachment. Learned counsel further contends that the notice is bereft of reasons and no specifications are mentioned as to what is the extent that is unauthorizedly occupied by the petitioners.

3. When the matter is taken up, learned Standing Counsel fairly submits that the respondent Municipality can be

given an opportunity to issue a proper notice to take appropriate course of action, as warranted by law. On a plain reading of the notice, it is observed that the notice do not contain any details of the alleged encroachment. Though it is termed as a notice, but it is in the form of a final order directing the petitioners to remove the encroachments, that too within a period of three days and it is not preceded by any notice and opportunity of hearing. Further more, it appears that the said notice was issued directing the petitioners to vacate the premises on the basis of the complaint alleged to have been made to the District Collector. The contents of the complaint are also not disclosed.

4. Having regard to the same, the notice impugned in the writ petition is set aside and the Writ Petition is, accordingly, allowed. However, liberty is granted to the respondent Municipality to take appropriate course of action, as warranted by law, if the respondent Municipality is of the view that the petitioners have encroached into the layout place as alleged in the impugned notice. 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: 29th October, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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