

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.37979 OF 2016

Dated:04.11.2016

Between:

Md. Asia Begum, S/o. Late Ghouse
Mohuddin, Aged about 66 years,
Occ: Landlord, R/o.D.No.23/900,
Wahebpeta, besides Bhavani Residency,
Near Madras Bus Stand, Nellore,
S.P.S.R. Nellore District

.. Petitioner

And

The State of Andhra Pradesh, rep., by
Its Principal Secretary, Municipal
Administration, A.P. Secretariat,
Hyderabad and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.37979 OF 2016****ORDER:**

This Writ Petition is filed to declare the action of the 2nd respondent in issuing notice, dated 24.10.2016, requiring her to remove the alleged encroachment of water channel and thereby trying to demolish the structures in the subject property, as illegal and arbitrary.

2. The petitioner states that she is the absolute owner and possessor of the subject property by virtue of the registered settlement deed executed by her husband in her favour. The grievance of the petitioner is that there was no encroachment of the water channel and without issuing prior notice calling for an explanation, the impugned notice was issued.

3. Learned counsel for the petitioner submits that explanation to the impugned notice was drafted and when the petitioner sought to submit the said explanation, the respondents did not accept the same stating that it is against to their conditions.

4. As seen from the notice impugned in the Writ Petition, the notice does not call for explanation from the petitioner, but holds that she is in occupation of water channel and directs her to remove the encroachment granting only three days time. The petitioner earlier instituted W.P.No.40161 of 2015 alleging illegal interference and demolition of her structure. This Court by order dated 11.12.2015 disposed of the said writ petition directing the

respondents not to take action for removal of the building of the petitioner without following due process of law. However, contrary to the said direction, without issuing notice and without calling for explanation from the petitioner, the respondents have straightaway issued the impugned notice to remove the structure in the subject property, as stated above.

5. Having regard to these facts, this Court is of the opinion that in the interests of justice, notice, dated 24.10.2016, be treated as a show cause notice and the petitioner is given liberty to submit her explanation within a period of one week from today enclosing all the relevant documents. If such an explanation is submitted within the time prescribed, the respondents are directed to consider the same and pass a reasoned order thereon. The respondents are further directed not to take any coercive action against the petitioner till the orders are passed.

6. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:04.11.2016

Note:- Issue C.C. two days.

(B/o)
KH