

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 37578 of 2016

Date : 7.11.2016

Between :

Smt Talluri Saraswathi W/o T Krishnaiah
Rangampet, near Bhadrakali temple
Warangal and others

Petitioner

And

The State of Telangana
Rep by its Principal Secretary,
Revenue Department, Hanamakonda, Warangal and others

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner and learned standing counsel for second respondent municipal corporation and with their consent, the writ petition is taken up for final disposal at the stage of admission.

2. This writ petition is instituted apprehending that respondent authorities are trying to demolish houses bearing Nos. 15-2-179/1, 15-2-198/A and 15-2-91/1 without issuing any notice and without initiating land acquisition proceedings.

3. In support of their contentions that active steps are taken to demolish the property, photographs are enclosed to the writ petition to show that compound wall was already removed and steps are being taken to remove the building itself.

4. Learned counsel for petitioner would contend that without notice or opportunity of personal hearing, private properties of the petitioners was sought to be removed and same is ex-facie illegal and on that ground alone the action of the respondents is liable to be declared as arbitrary and illegal.

5. Learned standing counsel, on instructions, would submit that houses are constructed within the buffer zone of Bhadrakali lake and same is ex-facie illegal and no building permission is obtained from the respondent municipal corporation, therefore there is no necessity to issue notices to petitioners and Section 405 of the Hyderabad Municipal Corporation Act, enable them to take such action without putting them on notice.

6. No doubt Section 405 of HMC Act would enable the respondent corporation to take action against any person, if such a construction is illegal and there is no requirement of causing a notice. However, to come to that stage, it is necessary to ascertain that the persons have constructed houses within the buffer zone of Bhadrakali lake. For this purpose at least a notice is required to

be caused on concerned persons whereas neither the Revenue authorities nor Municipal Corporation authorities have caused any notice before holding that petitioners have illegally occupied the land in buffer zone. In the fitness of things in this case, there is eminent necessity to call upon the petitioners to submit their explanations as to why action should not be taken against the alleged illegal constructions in buffer zone before taking coercive action against them.

7. It is appropriate to notice that petitioners filed affidavits giving undertaking to this Court that they will not undertake any further constructions till the issue is decided after following due procedure. In addition to the undertaking given, they have also filed photographs along with additional affidavit vide USR No. 31168 of 2016 showing the present status and undertaking that they will maintain the present status till issue is decided.

8. In the peculiar facts and circumstances of this case, writ petition is disposed of granting liberty to the respondents to cause notices on the petitioners against alleged illegal occupation of land in buffer zone and as and when notices are issued, petitioners shall respond to the same within the time granted and if any document is relied upon by them, to submit along with explanation. On consideration of the explanations, if any filed by the petitioners, the Competent Authority of the respondent corporation shall pass appropriate speaking orders as warranted by law and take further course of action. Till such course of action is followed and appropriate orders are passed thereon, no coercive steps shall be taken. Petitioners also shall not undertake any further constructions including construction of compound wall etc till the issue is finally decided by the competent authority. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:7.11.2016
TVK

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