

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.43284 OF 2016

Dated:16.12.2016

Between:

Kucharlapati Anjaneya Vara Prasada
Satyanarayana Raju, S/o. Suryanarayana
Raju, Prop., of M/s. Jayalakshmi
Products, aged 54 years, R/o.D.No.3-11-16,
S.S.R. Plaza, Undi Road, Bhimavaram,
Bhimavaram Mandal, West Godavari .. Petitioner

AND

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



The Court made the following:

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ORDER:

Heard. With the consent of learned counsel for the parties, the Writ Petition is disposed of at the stage of admission.

2. The petitioner opposes the building permission application stated to have been filed by the 6th respondent with the Bhimavaram Municipal Corporation, the 2nd respondent, on the ground that originally the subject property belongs to him and the same was purchased by the 6th respondent in an open auction conducted by the 5th respondent – Bank on the allegation that the petitioner defaulted in repayment of the amount borrowed from it. Aggrieved by the action of the 5th respondent – Bank in selling away the property, the petitioner filed S.A.No.186 of 2015 which is pending before the Debts Recovery Tribunal, Visakhapatnam. The petitioner submits that since he has already filed an appeal, the present status of the building cannot be altered and no further construction can be made in the subject property until the appeal is considered and disposed of. The petitioner claims to have filed an application seeking interlocutory orders and the same is under consideration by the Tribunal. At this stage, the petitioner filed this Writ Petition alleging that his representation, dated 07.10.2016, submitted to the 2nd respondent - Municipal Corporation is not acted upon, whereas the building permission application submitted by the 6th respondent is being actively pursued and if such permission is granted, grave prejudice would be caused to the petitioner.

3. It is not in dispute that in the open auction conducted by the 5th respondent – Bank to recover the debt due to it, the 6th respondent purchased the subject property and has become the owner of the said property. Thus, as of now, there is no impediment in dealing with the property, which is validly purchased by the 6th respondent. Therefore, the contention of the petitioner that the 2nd respondent - Municipal Corporation should not act on the building permission application cannot be accepted. Moreover, there is no provision in the Greater Hyderabad Municipal Corporations Act, 1955, which vests power in the Corporation not to grant building permission, when the property is validly vested in the owner of the property, merely because some litigation is initiated by the erstwhile owner. If at all, the petitioner has any grievance that the 6th respondent is undertaking construction during the pendency of his appeal before the Tribunal, he has to file an application and seek appropriate directions, as warranted in law, and only in the event of the Tribunal passing orders, the Corporation can be restrained from granting permission. Until such orders are passed by the Tribunal, the Corporation cannot be mandated not to grant building permission to the 6th respondent, as sought by the petitioner.

4. With the above observations, the Writ Petition is dismissed. 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:16.12.2016
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