

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION Nos.42893 & 42912 OF 2016

Dated:08.12.2016

W.P.No.42893 of 2016

Between:

Smt. C. Karuna, W/o. Chandaiah,
Aged about 48 years, Occ: Housewife,
R/o.H.No.18-156/3, Tirumala Colony,
Shadnagar Town, Ranga Reddy District .. Petitioner

AND

The State of Telangana, rep., by its
Principal Secretary, Department of
Municipal Administration Secretariat,
Hyderabad and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION Nos.42893 & 42912 OF 2016

COMMON ORDER:

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

2. The petitioners claim that they are the absolute owners and possessors of lands admeasuring 303.11 sq. yards and 150 sq. yards, respectively, situated at Tirumala Colony, Shadnagar Town. They constructed residential houses in the subject lands and are living in them. The petitioners allege that on 18.11.2016, Sri K. Sree Harsha, who is their adjacent land owner, was served with notice, under Sections 192, 194 and 361 of the Telangana Municipality Act, 1965 by the Commissioner, Shadnagar Municipality, the 2nd respondent, alleging that he has encroached the open space, which has to be utilised for public purpose, as per the approved layout, and constructed compound wall and part of RCC ground floor building. The petitioners apprehend that though no notice is served on them, the respondent – Municipality will take coercive steps against them since their plots are adjacent to the plot of Sri K. Sree Harsha.

3. Learned counsel for the petitioners submits that aggrieved by notice, dated 18.11.2016, K. Sree Harsha filed W.P.No.41360 of 2016. This Court, for the reasons assigned therein, disposed of the said Writ Petition and directed the respondent – Municipality to take further course of action in accordance with law. He further submits that in case the respondent – Municipality is contemplating to take any action

against the petitioners herein on the same allegation, they should follow the due procedure.

4. Learned Standing Counsel for the respondent – Municipality would submit that this Writ Petition is filed only on an apprehension and no similar notice was issued to the petitioners and that the respondent – Municipality will follow the due procedure before taking any coercive action.

5. It is not in dispute that no notice was issued to the petitioners and apprehending that as they are the adjacent plot owners, a similar notice will be issued to them alleging that they encroached the open space and are in occupation of the same and that there may be a similar threat to them, the Writ Petitions are filed, which are premature and liable to be dismissed. Further, there is no cause for the petitioners to invoke the jurisdiction of this Court, more particularly, when, with reference to the adjacent plot owner, the Court gave directions to the respondent – Municipality to follow the due procedure. The petitioners cannot apprehend that due procedure would not be followed by the Municipality when directions were already issued by it to the adjacent plot owner.

6. The Writ Petitions are accordingly dismissed as premature. However, the petitioners are at liberty to work out their remedies as available in law. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these Writ Petitions shall stand closed.

P. NAVEEN RAO, J

Date:08.12.2016
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