

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.42922 OF 2016

Dated:08.12.2016

Between:

Sri Baadam Sudhakar, S/o. Pentaiah,
Aged about 46 years, Occ: Business,
R/o.H.No.18-529/2, 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:

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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 claims that he is the absolute owner and possessor of land admeasuring 149 sq. yards in Survey No.271 situated at Tirumala Colony, Shadnagar Town. The petitioner alleges that he sold a part of the said land to Sri K. Sree Harsha. However, on 16.11.2016, Sri K. Sree Harsha 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 petitioner apprehends that though no notice is served on him, the respondent – Municipality will take coercive steps against him since his plot is adjacent to the plot of Sri K. Sree Harsha.

3. Learned counsel for the petitioner submits that aggrieved by notice, dated 16.11.2016, 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 petitioner herein on the same allegation, they should follow the due procedure of law.

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 petitioner 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 petitioner and apprehending that as he is the adjacent plot owner, a similar notice will be issued to him alleging that he encroached the open space and is in occupation of the same and that there may be a similar threat to him, this Writ Petition is filed, which is premature and liable to be dismissed. Further, there is no cause for the petitioner 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 petitioner 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 Petition is accordingly dismissed as premature. However, the petitioner is at liberty to work out his remedies as available in law. 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:08.12.2016

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