

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.34679 of 2016

Date: 08.12.2016

Between:

Aluri Srinivasarao, S/o Vishnuvardhanarao,
Aged 45 years, Occu: Agriculture,
R/o.D.No.49-4/1-17/1, Sangham Road,
Gunadala, Vijayawada City, Krishna district
and others.

.....Petitioners

and

State of Andhra Pradesh, rep.by its Principal
Secretary to Government, Municipal Urban
Development Department, Andhra Pradesh
Secretariat, Saifabad, Hyderabad and another.

.....Respondents



The Court made the following:

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ORDER:

Petitioners claim as the owners of the house site properties in Sy.Nos.325/1 and 325/6 of Gunadala Village, Vijayawada City, Krishna District. Petitioners allege that the respondent-Municipal Corporation is trying to interfere with the peaceful possession and enjoyment of their properties and the same is arbitrary and discriminatory.

2. According to the learned counsel for petitioners, the revenue records would disclose that properties belonging to the petitioners and the property do not belonging to the 2nd respondent-Municipal Corporation. He further contended that it is the private property and when the Municipal Corporation intended to utilize the private property for any public purpose, it has to follow due process, whereas without following due process, the authorities of Municipal Corporation are trying to dispossess the petitioners. The relief claimed in the writ petition was, to give a declaration of the action of the 2nd respondent in trying to “interfere with the petitioners’ possession and enjoyment of house site property’ is illegal. The interim relief sought was “not to interfere with the petitioners’ possession and enjoyment of house site property”.

3. In other words, petitioners are seeking injunction to be issued by this Court against the respondent-Municipal Corporation claiming the property in issue belonging to them.

4. The averments made in the affidavit filed in support of the writ petition would disclose that 2nd respondent-Municipal

Corporation is disputing the title and ownership of the writ petitioners and claims the property as belonging to the respondent-Municipal Corporation. Thus, when there is a dispute to the issue concerning the ownership and possession, this Court cannot dwell into the dispute and decide the issue. No declaration as sought for can be granted by this Court in exercise of power of judicial review under Article 226 of the Constitution of India.

5. The writ remedy is available only on a decision of the authority or the inaction of the authority in exercise of powers vested in him by statute or rules or executive instructions and acting on behalf of the State or its instrumentality. Even the State or its instrumentality is entitled to own property or claim ownership of any property. When there is a rival claim regarding ownership, such disputes can be resolved by availing common law remedy and not by way of judicial review under Article 226 of the Constitution of India. Leaving it open to the petitioners to work out their remedies as available in common law, writ petition is dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

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