

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA  
REDDY**

**WRIT PETITION No.41269 of 2015**

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**28.01.2016**

Between:

Sri Devi Constructions, Anantapur

.. Petitioner

and

The State of Andhra Pradesh,  
represented by the Principal Secretary,  
Municipal Administration and Urban Development Department,  
Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.G.Venkat Reddy for Mr.N.Aswartha Narayana

Counsel for respondent Nos.1 and 2: Government Pleader  
for Municipal Administration and Urban Development (AP)

Counsel for respondent No.3: Mr.S.D.Goud,  
standing counsel for Municipal Corporations (AP)

Counsel for the other respondents: --

**The Court made the following:**

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**ORDER:**

This writ petition is filed for a *mandamus* to declare the notices, *vide* U.C.No.14/2015, dated 06.10.2015, and U.C.No.14/2015, dated 29.07.2015, issued by respondent No.9, as contrary to G.O.Ms.No.128, Municipal Administration and Urban Development (M1) Department, dated 22.05.2015, G.O.Ms.No.175, Municipal Administration and Urban Development (M1) Department, dated 27.07.2015 and G.O.Ms.No.241, Municipal Administration and Urban Development (H2) Department, dated 31.10.2015, and the inaction of respondent No.3 in processing the petitioner's application, dated 21.10.2015, for regularization of the unauthorized constructions, as illegal and arbitrary. The petitioner sought for a consequential direction to respondent No.3 to process the aforesaid application and pass appropriate orders thereon, as per the aforementioned G.Os.

On 18.12.2015, this Court passed the following order:

“Mr.S.D.Goud, learned standing counsel for Anantapur Municipal Corporation, takes notice for respondent No.3 and seeks time for filing counter-affidavit.

Mr.N.Aswartha Narayana, learned counsel for the petitioner, submitted that his client has constructed shops in the stilt floor earmarked for parking and also pent house(s) and that the petitioner will file an application for regularization of the illegal constructions in pursuance of the Building Penalization Scheme. He has, however, fairly conceded that as regards the constructions in the stilt floor, the Building Penalization Scheme does not allow their regularization and he has undertaken to remove all the constructions in the stilt floor and file an affidavit along with photographs within one week.

Accordingly, the writ petition is adjourned to 28.12.2015. Post the case ‘for Orders’ on that day.”

As the petitioner has failed to file an affidavit undertaking to remove the constructions made in the stilt area earmarked for parking, this Court on 28.12.2015, passed the following order:

“Though the case was adjourned on 18.12.2015 to

enable the petitioner to file an affidavit undertaking to remove the constructions made in the stilt area earmarked for parking, no such affidavit has been filed.

Therefore, respondent No.3 is directed to remove the constructions in the stilt portion earmarked for parking after following the procedure prescribed under the Greater Hyderabad Municipal Corporation Act, 1955 and submit a report in this regard by the next date of hearing.

Post on 25.01.2016.”

Thereafter, the Commissioner of respondent No.3 filed an affidavit, wherein he has, *inter alia*, stated that as per this Court's directions in the order, dated 28.12.2015, the said respondent has removed the construction in the stilt portion earmarked for parking after following the prescribed procedure. Photographs in support of this averment are also filed, from which, this Court is satisfied that the entire construction in the stilt portion has been removed. Respondent No.3 is directed to ensure that the petitioner shall not raise further construction in the stilt area in future.

As regards the two pent houses illegally constructed by the petitioner, it is its pleaded case that an application for regularization was filed on 21.10.2015, which was received by respondent No.3 on 26.10.2015, along with a demand draft for Rs.10,500/- as prescribed under the Building Penalization Scheme (BPS).

Learned counsel representing Mr.S.D.Goud, learned standing counsel for Municipal Corporations (AP) appearing for respondent No.3, while admitting that the petitioner sent the demand draft along with its application, dated 21.10.2015, however, submitted that the said application is not in the prescribed *pro forma*.

The learned counsel for the petitioner has stated that since the petitioner's building was not assessed to tax, online system has not accepted the said building for the purpose of applying for BPS and that therefore, the petitioner could not down load the *pro forma* application

and thereby, it could not make the application for BPS in the prescribed *pro forma*.

Having regard to the technical defect expressed by the learned counsel for the petitioner in filing the BPS application in the prescribed *pro forma*, respondent No.3 is directed to treat the application, dated 21.10.2015, filed by the petitioner as having been filed in *pro forma* and consider the same as valid application filed for regularization of the two pent houses. Till disposal of the petitioner's application for regularization, respondent No.3 shall not remove the two pent houses.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P.Nos.53267 and 53268 of 2015 filed by the petitioner for interim reliefs shall stand disposed of.

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**C.V.NAGARJUNA REDDY, J**

**28<sup>th</sup> January, 2016**  
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