

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

WRIT PETITION No.1628 of 2016

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21.01.2016

Between:

Alwal Roopam

.. Petitioner

and

The State of Telangana,
represented by its Principal Secretary,
Municipal Administration and Urban Development Department,
Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.N.V.Subba Raju

Counsel for respondent No.1: Assistant Government Pleader
for Municipal Administration and Urban Development (TS)

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 inaction of respondent Nos.2 and 3 in taking action against the illegal constructions being raised by respondent Nos.4 to 7, as illegal and arbitrary.

This case has a long history of litigation, reference to which is unnecessary. It will suffice to note that so far, the petitioner remained unsuccessful in getting his right declared as being successor to late Alwal Veeraiah, the original protected tenant, over the subject land. C.R.P.No.3420 of 2014 filed by the petitioner is claimed to be pending before this Court. Thus, so far the petitioner's claim of his succeeding to protected tenancy has not been declared and his right is thus inchoate. However, for the present, the grievance of the petitioner is that having obtained the building permission for residential purpose, respondent Nos.4 to 7 have been constructing a function hall and that the complaints given by the petitioner to respondent Nos.2 and 3 have not yielded any action.

In my opinion, until the petitioner's right over the subject land is declared, he will have no *locus* to question the constructions being raised by respondent Nos.4 to 7. Whether respondent Nos.4 to 7 have been constructing either in accordance with the sanctioned plan or in deviation thereof, no harm will be caused to the petitioner nor any benefit will accrue to him on account thereof. If the petitioner is aggrieved by the very construction of building by respondent Nos.4 to 7, he can only seek appropriate relief in the pending C.R.P. or in any other substantive proceeding. In the guise of enforcing public duty of respondent Nos.2 and 3, the petitioner cannot be permitted to raise property dispute between himself and respondent Nos.4 to 7 by availing the public law remedy of a writ petition. In this view of the matter, I am not inclined to entertain this writ petition for adjudication

on merits. However, before parting with this case, it needs to be observed that respondent Nos.2 and 3 are under statutory obligation to examine whether the constructions being made by respondent Nos.4 to 7 are in accordance with the building permission or not. Having received the complaints, respondent Nos.2 and 3 cannot remain indifferent.

Therefore, while dismissing the Writ Petition, respondent Nos. 2 and 3 are directed to examine whether the constructions being raised by respondent Nos.4 to 7 are in accordance with the sanctioned plan, and initiate appropriate action in accordance with law in the event, they find that the said respondents are raising constructions in deviation of the sanctioned plan.

As a sequel to dismissal of the writ petition, W.P.M.P.Nos.2050 and 2051 of 2016 filed by the petitioner for interim reliefs shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

21st January, 2016
GHN