

**THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

**CIVIL REVISION PETITION No.1588 OF 2018**

**DATED :31.08.2018**

Between :

Ravula Subhadra Devi, W/o.Late Soma Reddy,  
Aged 75 yrs, Occu : Household,  
R/o.Haripirala Village, Thorrur Mandal,  
Mahabubabad District.

.. Petitioner

And

Bogelli Rajani,  
W/o.B.Madhukar Rao,  
Aged 35 yrs, Occu : Business,  
R/o.H.No.1-392/1,  
Narsampet Village and Mandal,  
Warangal District.

.. Respondent



This court made the following :

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**ORDER :**

Heard learned counsel for the petitioner. Court was informed that the notice sent to defendant could not be served as she was not available and that her whereabouts were not known to the petitioner. The Court granted leave to serve notice on the counsel for the defendant appearing before the trial Court. Notice is served and memo to that extent is filed. But no appearance is entered.

2. Petitioner/plaintiff filed O.S.No.960 of 2011 on the file of II Additional Junior Civil Judge, Warangal to grant injunction against the respondent/defendant. Petitioner claimed that she purchased 311 Square yards of house plot in the year 1981 and constructed a room and is in possession and enjoyment of the said plot, whereas, the respondent is trying to interfere with the physical possession and enjoyment.

3. Petitioner filed I.A.No.712 of 2017 under Rule 129 of Civil Rules of Practice to summon Assistant City Planning Officer, Circle-II, Kazipet, Warangal along with record in File Rc.No.6/GPK/2010 dated 10.10.2010.

4. According to the petitioner, the respondent/defendant made a false claim of securing building permission and constructed rooms by referring to the alleged building plan. Whereas the information obtained by the petitioner from the Municipal Corporation, Warangal, under the Right to Information Act, would disclose that no such building permission was granted to defendant and that building permission was granted to a person by

name N.Srinivas on a different property. Thus, to ascertain the truth of the allegations made by the defendant, the said record should be summoned.

5. The trial Court did not accept the plea of petitioner holding that petitioner cannot rely upon the weakness in the defence of the defendant to establish the claim of petitioner to grant injunction as prayed in the suit.

6. According to learned counsel for the petitioner, the defendant filed Caveat No.63 of 2011 deposed on 01.08.2011. In the said caveat even according to the defendant she was in possession of open plot No.231 admeasuring 300 Square yards in Sy.No.9 of Waddepally Revenue Village, Hanamkonda (M). Waddepalli was a revenue village and subsequently merged into Warangal Municipal Corporation now called as Greater Warangal Municipal Corporation. That being so, the stand of defendant of obtaining building permission, much earlier to filing of caveat is false and by obtaining a false certificate illegal claim is made. The alleged building permission with an anterior date is only invented to defeat the claim of petitioner for granting injunction by claiming as if by the time the injunction suit was instituted the defendant is in possession. Learned counsel therefore, submits that having regard to the information furnished to him and the material obtained by him, it is necessary to ascertain whether the concerned document on which reliance is placed is actually forming part of the Municipal record.

7. The defendant contended that building permission alleged to have been granted on 10.10.2010 and a house was constructed and therefore claimed to be in possession by the time suit was

instituted. In the affidavit filed in support of the Caveat petition, defendant claimed that she is in possession of open plot. This assertion lends credence to contention of petitioner. That being so, the trial Court ought to have allowed the prayer of petitioner to summon the Assistant City Planning Officer, Circle-II, Warangal Municipal Corporation, Kazipet, along with the entire record.

8. Though the suit is for grant of injunction against the defendant and the two primary ingredients for the plaintiff to satisfy are *prima-facie* ownership to the property and possession as on the date of institution of suit the issue whether building permission was granted to defendant prior to institution of suit is crucial.

9. Having regard to these facts and for eliciting the truth on the issue, I am of the opinion that prayer to call for the record of Municipal Corporation along with the concerned officer is justified and trial Court ought to have granted the relief.

10. Having regard to the same, the Civil Revision Petition is allowed and the trial Court is directed to summon the Assistant City Planning Officer, Circle-II, Greater Warangal Municipal Corporation, Kazipet, along with the entire record in File Rc.No.6/GPK/2010 dated 10.10.2010. Pending miscellaneous petitions, if any, shall stand closed.

**P.NAVEEN RAO,J**

31<sup>st</sup> August, 2018  
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