

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.9333 of 2017

ORDER:

Heard learned counsel for the petitioner and learned counsel for the unofficial respondent Nos.4 and 7 respectively, for respondent Nos.5 and 6 served failed to attend, learned Government Pleader for Municipal Administration for respondent No.1 and Sri Md.Saleem, learned Standing Counsel for respondent Nos.2 and 3 from written instructions and perused the prayer in the writ petition with supporting affidavit and other material on record including the written instructions.

2. The prayer in the writ petition reads as follows:

“.....to issue an order, writ or direction more particularly in the nature of Writ of Mandamus declaring the action of the respondents No.1-3 in seeking to demolish the shop by name Zabi Water Servicing Center of the petitioner in an extent of 0.4 cents out of Ac.1.36 cents in Survey No.79-2B bearing door No.7-7-1 known as “Chinna Raju Compound” situated at Vasavi Dharma Sala Road, Hindupur Municipal limits, Hindupur, Anantapur District without considering the Status quo orders in I.A.469/2015 in O.S.no.203/2015 on the file of Junior Civil Judge, Hindupur is illegal, arbitrary, unjust and violative of Articles 14, 21 and 300-A of the Constitution of India and violation of the principles of natural justice and consequently direct the respondents forbear the proposal to demolishing the petitioner's shop and work shop in the above mentioned property and pass such other order or orders that the Hon'ble Court may deem fit and proper in the interest of justice.”

3. It is the averment in the writ petition affidavit from paras 3 to 8 particularly from para 6 that the unofficial respondents are colluding with 3rd respondent at the instance of the local political rivals particularly the husband of the Municipal Chairman under the guise that the building is likely to be crumbled and is in a dilapidated condition by came to the property and cause measured in saying they are going to demolish by taking to their hands though the building is even nearly eight years, it is sustainable and not in any dilapidated condition or unsustainable condition.

4. The written instructions of the learned Standing Counsel for the Municipality is that the allegations are un-true, they never visited the property much less stated to demolish on the ground of its unsustainability or in crumbling position or likely to be demolished. Suffice to record the same, but for counsel for respondent No.7 says the building is not in sustainable condition, the learned Standing Counsel for the Municipality-respondent No.2 did not answer anything in this regard. If at all the building is endangering to the neighbours or to the passers by from any dilapidated condition that belongs to respondent No.4 entered into agreement with respondent No.4 by respondent No.7, it is left open to the municipal authorities including for any grievance of respondent Nos.7 or respondent No.4 or any of private person to complain also to the municipal authorities, to visit and consider through their engineering wing, the sustainability of the building and any measures to be required for effecting

necessary repairs or to demolish, they have to give notice with opportunity to the petitioner to submit any explanation and beyond that they cannot interfere with the private property alleged in the lease of the petitioner in any manner except through any due process of law.

5. Accordingly, the writ petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

12th March 2018

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Dr. B. SIVA SANKARA RAO, J

