APHC010499102015

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3333]**
(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 3425/2015

Between:

Pusarala Venkata Lakshmi Narasimha Rao, **...PETITIONER**

AND

The State Of A P and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. P RAJESH BABU

Counsel for the Respondent(S):

1.

2. GP-MUNCIPAL ADMN AND URBAN DEV(AP)

3. A S C BOSE (SC FOR MUNICIPAL CORPORATIONS AP)

The Court made the following:

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

> "….*to issue a writ, order or Direction more particularly one in the nature of Writ of Mandamus declaring the proposed action of the respondent No.2 in interfering with peaceful possession and enjoyment of the property of the petitioner bearing No.9-25-70, Gunduvari Street, Rajahmundry, East Godavari District, by way of demolition of the said property under the guise of proposed road widening without issuing any notice and opportunity as contemplated under law, as illegal, arbitrary and in violation of the Principles of Natural Justice Articles 21 and 300 A of The Constitution of India and consequently direct the respondent No.2 not to interfere with the peaceful possession and enjoyment of the property of the petitioner, bearing D.No.9-25-70, Gunduvari Street, Rajahmundry, East Godavari District, without following due procedure as contemplated under law and pass...."*

2. The case of the petitioner is that the petitioner is the absolute owner and possessor of a building bearing D.No.9-25-70, Gunduvari Street, Rajahmundry. Earlier in the year 2002, the respondent No.2-Municiapl Corporation gave markings to the property of the petitioner along with the residents of the same street, under the guise of road widening scheme for implementing Master Plan *vide* G.O.No.465/1975. Thereafter, as the said G.O became lapsed due to non-implementation by the respondent No.2-Municipal Corporation, within a period of three years from the date of coming into force, the petitioner along with others filed a batch of Writ Petitions in W.P.No.3066

of 2003, which was allowed by this Court on 20.02.2003, by issuing directions to the respondent No.2-Municipal Corporation not to demolish the houses of the petitioners without following due process of law. The petitioner along with others also filed suit for declaration in O.S.No.293 of 2003 on the file of the IV Additional Junior Civil Judge, Rajahmundry, that the respondent No.2-Municipal Corporation cannot implement the road widening scheme under the G.O.MA.No.465/1975, since it seized to have effect due to the bar of limitation and also for a consequential perpetual injunction restraining the respondent No.2-Municipal Corporation from demolishing any of the buildings of the plaintiffs of the suit, which was decreed by the Learned Junior Civil Judge, by way of Judgment and Decree dated 03.09.2007, declaring the action of the respondent No.2-Municipal Corporation as illegal and unjust, directing them not to implement the G.O.MA.No.465/1975 unless the directions of this Hon'ble Court in W.P.No.1387 of 2000, are followed, the said G.O.No.465/1975 cannot be implemented by the respondent No.2-Municipal Corporation. The said suit was decreed on 03.07.2007.

3. The present grievance of the petitioner is that while the case stood thus, the respondent No.2-Municipal Corporation, without following the directions given in the aforementioned judgments, highhandedly started making markings to all the buildings in the street, without giving any intimation or any notice either in writing or orally for road widening. As the said proposal is being highly objectionable, the residents got issued legal notice dated

28.01.2015, under Section 685 of Hyderabad Municipal Corporation Act, which was acknowledged by the respondent No.2. But as the respondent No.2-Municipal Corporation is trying to demolish the petitioner's property; the petitioner filed the present Writ Petition.

4. When the matter came up for hearing on 23.02.2015, this Court, while ordering notice before admission, directed the parties to maintain status quo and the same is extended from time to time.

5. Heard learned counsel for the petitioner and Sri A.S.C.Bose, learned Standing counsel appearing for respondent No.2.

6. Today, when the matter came up for hearing, learned Standing Counsel representing respondent No.2, on oral instructions, stated that in pursuance of the interim order dated 23.02.2015 passed by this Court, the respondents are not interfering with the possession of the petitioner over the property in D.No.9-25-70, Gunduvari Street, Rajahmundry. However, if at all they intend to interfere with the petitioner's possession, they would follow the due process of law.

7. Recording the said submission, the Writ Petition is disposed of directing the respondents authorities not to interfere with the possession and enjoyment of the petitioner over the scheduled property bearing D.No.9-25-70, Gunduvari Street, Rajahmundry, without following due process of law. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall also stand closed.

JUSTICE V.SUJATHA

Dated: 28.02.2025
SNI

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THE HONOURABLE SMT JUSTICE V.SUJATHA

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Date: 28.02.2025

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