

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)

THURSDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 17010 OF 2023

Between:

Ennamuri Sudhakar, S/o Lakshmaiah, Aged about 51 years, R/o 4-28, Beside
Navata Transport, Kota, Nellore, SPSR Nellore District.

...PETITIONER

AND

1. The State of Andhra Pradesh, rep. by its principal Secretary, Municipal and Urban Development, Department, A P Secretariat, Velagapudi, Amaravati, Guntur District
2. The Nellore Municipal Corporation, Rep by its Municipal Commissioner, Nellore City, SPSR Nellore District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing notice vide 5/1031/NLR/UC/2023 dated 04.07.2023 purportedly issued under Section 452(1) and 461(1) of AP Municipal Corporation Act and also Section 86, 89 (1 & 2), 90 (1) of APMR and UDA ACT-2016 and not considering the objections dated 07.07.2023 of the petitioner is illegal, arbitrary and unconstitutional and consequently set aside the notice vide 5/1031/NLR/UC/2023 dated 04.07.2023 and consequential proceedings issued by the 2nd respondent by declaring the same as null and void and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 2nd Respondent not to demolition the petitioner building with an extent of 33 akanams 24 Sq feet or 266.666 Sq yards bearing D. No. 16-4/1702 situated in plot no 25 comprised in Sy. No. 875, Childrens Park Area, Nellore City, SPSR Nellore District, pending disposal of writ petition.

Counsel for the Petitioner(s): SRI. SIVAPRASAD REDDY VENATI

Counsel for the Respondents 1 : GP FOR MUNICIPAL ADMN URBAN DEV

Counsel for the Respondents 2 : SRI KALVA SURESH KUMAR, SC FOR MUNICIPALITY

The Court made the following: ORDER



THE HON'BLE DR.JUSTICE K. MANMADHA RAO

Writ Petition No.17010 of 2023

ORDER:-

This Writ Petition is filed, under Article 226 of the Constitution of India, seeking the following relief:

".... to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing notice vide 5/1031/NLR/UC/2023 dated 04.07.2023 purportedly issued under section 452(1) and 461(1) of AP Municipal Act and also Section 86, 89 (1 & 2), 90(1) of APMR & UDA ACT-2016 and considering the objections dated 07.07.2023 of the petitioner is illegal, arbitrary and unconstitutional and consequently set aside the notice vide 5/1031/NLR/UC/2023 dated 04.07.2023 and consequential proceedings issued by the 2nd respondent by declaring the same as null and void."

2. Heard Mr. Sivaprasad Reddy Venati, learned counsel for the petitioner, learned Government Pleader for MA & UD, appearing for the Respondent No.1 and Mr.Kalava Suresh Kumar Reddy, learned Standing Counsel, appearing for the Respondent No.2. Perused the material on record.

3. Learned counsel for the Petitioner submits that the petitioner is the absolute owner and possessor of the property with an extent of 266.666 sq. yards bearing D.No.16-4/1702 (Plot No.25) situated in Survey No.875, Childrens Park Area, Nellore

City, SPSR Nellore District. He has been in peaceful possession and enjoyment of the said property. While the matter stood thus, the 2nd issued Notice No.5/1031/NLR/UC/2023, dated 04.07.2023 to the petitioner to the effect that there is deviation in the setback front portion to an extent of 1.55 meters, set back side to an extent of 1.175 meters and 0.325 meters and 0.90 meters for set back side. On receipt of the said notice, the Petitioner submitted his explanation on 07.07.2023 stating that without taking any measurements of the building, the impugned notice was issued. Learned counsel for the Petitioner further submits that, the 2nd respondent officials have not inspected the premises and measure the same. If at all any deviations are found, the respondent authorities have to follow the due process of law.

4. On the other hand, the learned Standing Counsel for the 2nd respondent submits that, the 2nd respondent authority would follow the due process of law.

5. On hearing the submissions of both the Counsels, the 2nd respondent is directed to consider the explanation dated 07.07.2023 submitted by the petitioner in pursuance of the Notice No.5/1031/NLR/UC/2023, dated 04.07.2023, and pass appropriate orders within a period of eight (08) weeks from the

date of receipt of the order. Till such time, the 2nd respondent is directed to not to demolish or pulled down the construction of the subject property of the petitioner.

6. Accordingly, the Writ Petition is disposed of at the admission stage.

There shall be no order as to costs.

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

**SD/- P. VINOD KUMAR
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Municipal and Urban Development, State of Andhra Pradesh, Department, A P Secretariat, Velagapudi, Amaravati, Guntur District
2. The Municipal Commissioner, Nellore Municipal Corporation, Rep by its Nellore City, SPSR Nellore District.
3. One CC to SRI. SIVAPRASAD REDDY VENATI Advocate [OPUC]
4. Two CCs to GP for MUNICIPAL ADMN URBAN DEV, High Court of Andhra Pradesh. [OUT]
5. One CC to SRI KALVA SURESH KUMAR, SC for MUNICIPALITY [OPUC]
6. Two CD Copies

MSR

AG

M.M. Bar

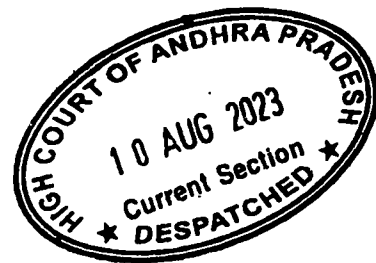
HIGH COURT

DATED:13/07/2023

ORDER

WP.No.17010 of 2023

⑧
M.M.Bor
9/8/23



DISPOSING THE WP AT ADMISSION STAGE