

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND NINE

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 3337 of 2003

Between:

Kotipalli Nagamani, W/o. Leela Prasad
H.No. 80-23-10/1, Jayasree Gardents, Rajamundry,
E.G. Dist.

..... PETITIONER

AND

Municipal Corporation of Rajamundry, Rep by its Commissioner,
Rajahmundry, E.G. Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue of Mandamus or any other appropriate writ, order or direction, declaring the proposed impugned action of the respondent in demolition of house building of the petitioner bearing Municipal D.No. 80-23-10/1, covered under R.S.No.220, Plot No. 23 in an extent of 158/1-2 sq. yards situated at Jayasree Gardens, II Street, Rajamundry as illegal, arbitrary and violative of principles of natural justice and for a consequential order further directing the respondents to not to demolish the house building of the petitioner bearing Municipal bearing D.No. 80-23-10/1, covered under R.C. No. 220, Plot No. 23 in an extent of 158/1-2 sq. yards situated at Jayasree Gardents, II Street, Rajahmundry.

Counsel for the Petitioner: MR.CH.DHANAMJAYA

Counsel for the Respondent: MR.S.NAGESWARA REDDY

The Court made the following :

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ORDER:

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In this Writ Petition the petitioner seeks writ of *Mandamus* declaring the action of the respondent in taking steps for demolition of the house building of the petitioner bearing Dr.No.80-23-10/1 in Plot No.23, situated at Jayasree Gardens, II Street, Rajahmundry, as illegal and arbitrary.

In the affidavit filed in support of the Writ Petition it is stated that the petitioner is the owner of the house bearing No.80-23-10/1, covered under R.S.No.220, in Plot No.23 in an extent of 158/1-2 square yards, situated at Jayasree Gardens, II Street, Rajahmundry. The petitioner has purchased the said property by registered sale deed dated 03-02-1993 from its earlier owner Smt.Anwar Jaha Begum. It is further submitted that even with regard to construction covered by first floor, on the application filed by the petitioner, constructions were regularized by proceedings, dated 17-03-1998 passed in Roc.No. B.A.1166/97-G4 by the Commissioner, Municipal Corporation, Rajahmundry. It is the grievance of the petitioner that though the constructions made by the petitioner were regularized, respondent is taking steps for demolishing the same, without giving prior notice and opportunity.

At the stage of admission, this Court by order, dated 25-02-2003, granted interim directions not to demolish the structures in the house bearing No. 80-23-10/1 in Plot No.23, situated at Jayasree Gardens, II Street, Rajahmundry. Though the Writ Petition is pending since 2003, no

counter-affidavit is filed on behalf of the respondent. There is also no representation on behalf of the respondent municipal corporation.

In view of the facts and circumstances of the case and as much as the respondent Municipal Corporation has not controverted the averment in the affidavit filed in support of the Writ Petition that no notice is issued, I dispose of the Writ Petition directing the respondent not to take any steps for demolition of the structures covered by House bearing No.80-23-10/1 covered under R.S.No.220, Plot No.23, situated at Jayasree Gardens, II Street, Rajahmundry. However, it is made clear that if any constructions are made not covered by valid permission or regularization order, this order will not preclude the respondent to issue prior notice in this regard to the petitioner and take further steps in accordance with the provisions under A.P. Municipalities Act, 1965 and Rules made thereunder.

Subject to above directions, the Writ Petition is disposed of. No order as to costs.

R.SUBHASH REDDY, J.

30th June, 2009.

skmr