

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition Nos.5892 and 11468 of 2015

Date: 24-04-2015

W.P.No.5892 of 2015

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Between:

Adarsha Educational Society, Bukkapatnam,

Represented by its Correspondent P. Subramanyam

.... Petitioner

AND

The State of Andhra Pradesh, represented by

District Collector, Ananthapuram District and

4 others

.... Respondents

W.P.No.11468 of 2015

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Between:

Y. Sarojamma

.... Petitioner

AND

The State of Andhra Pradesh, represented by

District Collector, Ananthapuram District and

2 others

.... Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition Nos.5892 and 11468 of 2015

COMMON ORDER:

Since the issue involved in both the writ petitions is similar and identical, they are being disposed of this common order.

2. W.P.No.11468 of 2015 is filed for a mandamus declaring the action of the 3rd respondent Gram Panchayat in issuing the notice vide R.C.No.21/2015, dated 23-03-2015 directing the petitioner to remove the compound wall situated in D.No.2-27, Vannappa Colony, Gorantla Town, Ananthapur District as illegal and arbitrary and for a consequential direction to the respondents to set aside the same and not to demolish the said compound wall.

3. The case of the petitioner is that she is absolute owner and possessor of House bearing No.2-27, Vannappa Colony, Gorantla Town, Ananthapur District having purchased the same under a registered sale deed bearing Doct.No.1213/2006 and thereafter, she submitted an application to the 3rd respondent Gram Panchayat for granting permission for construction of residential building and the 3rd respondent Gram Panchayat, after verifying the ownership and other relevant documents, granted permission for construction of Ground plus first floor vide BAP.No.58/2012-13, dated 25-08-2012 and the petitioner constructed residential building including compound wall as per the building permission granted to her without any deviation. While so, the 3rd respondent Gram Panchayat issued a notice dated 23-03-2015 to the petitioner alleging that she allegedly encroached 2½ feet towards road side of existing 30 feet road, in response to which the petitioner submitted her explanation on 24-03-2015, but the 3rd respondent Gram Panchayat, without considering her

explanation, is trying to demolish the said compound wall. Aggrieved by the same, the present writ petition is filed.

4. Heard the learned counsel for the petitioner, Sri G. Seshadri, learned standing counsel for the 3rd respondent-Gram Panchayat and Sri Kunchem Maheswararao, learned counsel for the petitioner in W.P.No.5892 of 2015.

5. Learned standing counsel for the 3rd respondent stated that when W.P.No.5892 of 2015 is filed alleging that the 4th respondent therein and 5th respondent therein, who is petitioner in W.P.No.11468 of 2015, are making constructions by encroaching the road, this court passed interim direction to the respondents 2 and 3 therein to consider the representations of the petitioner therein dated 30-01-2015 and 12-02-2015 and take action according to law. Pursuant to the said interim direction, the 3rd respondent Gram Panchayat, after considering the representations of the petitioner in W.P.No.5892 of 2015, issued the present impugned notice in R.C.No.21/2015, dated 23-03-2015. He further stated that though the petitioner in W.P.No.11468 of 2015 asserted that she filed her explanation on 24-03-2015 in response to the present impugned notice, the same was not received by the 3rd respondent-Gram Panchayat in W.P.No.11468 of 2015. Learned standing counsel further stated that in case the petitioner in W.P.No.11468 of 2015 submits fresh explanation, the 3rd respondent will consider the same and take appropriate action thereon in accordance with law, for which both the counsel in both writ petitions have agreed the same.

6. In view of above facts and circumstances, the petitioner in W.P.No.11468 of 2015 shall file her explanation within a period of one week from today without waiting for a copy of this order and on filing of such explanation by the petitioner, the 3rd respondent-Gram Panchayat, after asserting whether the petitioner in W.P.No.11468 of 2015 has really encroached the road as alleged and after making proper measurements as per the approved building permission, shall consider the same and take appropriate decision thereon in accordance with law. However, it is open for the 3rd respondent-Gram Panchayat, in case the petitioner encroached the road in deviation of approved building permission, to take appropriate action as per law. Till such decision is

taken by the 3rd respondent-Gram Panchayat status quo obtaining as on today shall be maintained.

7. With the above directions, the writ petitions are disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petitions, shall stand closed.

A. RAJASHEKER REDDY, J

Date: 24-04-2015

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