

HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA  
PRADESH

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI  
SENGUPTA  
AND  
THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT APPEAL NO.179 OF 2015

DATED:4.3.2015

Between:

Kanisiripi Ammaji

... Appellant

And

Gollapalli Gangadhar Rao  
and others

... Respondents

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI  
SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

-  
WRIT APPEAL NO.179 OF 2015

-  
JUDGMENT: (per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

This appeal is sought to be preferred against the judgment and order of the learned Trial Judge dt.24.12.2014 in W.P. No.38977 of 2013.

2. As many as nine ward members filed the above writ petition challenging the order passed by the District Panchayat Officer who thought it fit to shift the panchayat office from a new building to an old one. The sum and substance of the allegations and ground of the writ petition have been recorded by the learned Trial Judge, and we do not think it fit to reiterate the same. Suffice it to say that the writ petitioners – respondent Nos.1 to 9 in this appeal are ward members of the Gram Panchayat called Peddanapalli Gram Panchayat. The office of the Gram Panchayat was located in an old building, which was found to be dilapidated in the year 2003. Accordingly, a decision was taken by a valid resolution of the Gram Panchayat on 28.8.2003 to shift the same to a suitable new building. Hence, a new building was constructed in November 2005 and on 13.12.2005 the office of the Gram Panchayat was shifted to the new building and since then it has been functioning therein. Thereafter, by the impugned order dt.20.12.2013 the office of the Gram Panchayat was decided to be brought back to the old dilapidated building.

3. The petitioners challenged the aforesaid order of the District

Panchayat Officer alleging that it is unauthorized because under the Andhra Pradesh Panchayat Raj Act, 1994 (hereinafter referred to as 'the Act') it is not permissible for the District Panchayat Officer to take the decision.

4. The learned Trial Judge has accepted the contention of the writ petitioners and it was found by His Lordship that the decision of shifting of the Gram Panchayat office from old place to a new one was taken by a resolution adopted by the Gram Panchayat and it was not challenged. This finding was recorded overruling the contention of the appellant – Sarpanch that such decision was not a valid one. It was further found by the learned Trial Judge that since 2005 the Gram Panchayat Office has been functioning in the new building and it was not challenged and further the decision of the District Panchayat Officer was illegal, as he has no jurisdiction to take such decision and hence the order impugned has to be set aside, and accordingly His Lordship set aside the order and allowed the writ petition.

5. In the context of the aforesaid legal and factual findings, the learned counsel appearing for the appellant – Sarpanch would urge that the decision of re-shifting the Gram Panchayat Office by the impugned order was taken by the Government, as the District Panchayat Officer is a government official and representing the Government. He has drawn our attention on this issue to Section 247 of the Act, which reads as under:

**“247. Power of Government to take action in default of a Gram Panchayat, Mandal Parishad or a Zilla Parishad:-** (1) If at any time it appears to the Government that a gram panchayat or the Sarpanch thereof or the Mandal Parishad or the President thereof or the Zilla Parishad or the “*Chairperson*” thereof or any Standing Committee of the Zilla Parishad has made default in performing any function or discharging any duty imposed by or under this Act, or any relevant law for the time being in force, the Government may, by order in writing fix a period for performing such function or discharging such duty.

(2) If such function or duty is not performed or discharged by any authority aforesaid within the period so fixed, the Government may appoint some person to perform that function or discharge that duty and may direct that the expense incurred in that regard shall be paid by the person having

the custody of the Gram Panchayat Fund, Mandal Parishad Fund or the Zilla Parishad Fund, as the case may be, in priority to any other charges against such fund except charges for the service of authorized loans.”

6. On a plain reading of the aforesaid Section, it appears that it has no manner of application in the facts and circumstances of the case. Section 247 of the Act will be applicable in case where intervention of the Government is necessary and that too in case of default of a Gram Panchayat. According to us, the District Panchayat Officer is not Government. ‘Government’ has been defined in Section 2(16) of the Act, means the State Government. The District Panchayat Officer is not a functionary of the State Government in the hierarchy. State Government is represented always by the Secretary concerned for all functions of the State Government. The District Panchayat Officer is a statutory body within the Act itself, namely the Andhra Pradesh Panchayat Raj Act, 1994. He has got different powers and functions. We have tried in vain to locate the power of the District Panchayat Officer to take a decision of this nature. Learned counsel for the appellant is unable to show any provision that enables District Panchayat Officer can take decision in this matter. The learned Trial Judge, in our view, has correctly held that the order passed by the District Panchayat Officer to re-shift the panchayat office to the old place is unauthorized and illegal. We therefore do not find any substance in this appeal. Appropriate relief has been granted by the learned Trial Judge.

7. The writ appeal is accordingly dismissed. However, we feel that the amount of costs awarded by the learned Trial Judge has to be reduced to some extent. The Sarpanch is merely an employee of the Gram Panchayat. Therefore, we reduce the costs to Rs.50/- (Rupees fifty only) instead of Rs.2,000/- (Rupees two thousand only) to be paid to each of the writ petitioners. However, we are not awarding any costs of this appeal because no one for respondents is called upon to hear.

Pending miscellaneous petitions, if any, shall also stand dismissed.

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K.J. SENGUPTA, CJ

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SANJAY KUMAR, J

4.3.2015

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Note: L.R. Copy to be marked.