

HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.9595 of 2005

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Date: April 30, 2015

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Between:

Kamavarapu Venkata Subrahmanya Sharma. ... Petitioner

and

1. The Executive Officer,

Township/Grampanchayat,

Bhadrachalam, Khammam

District & 2 others. ... Respondents

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HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.9595 of 2005

ORDER:

This writ petition was filed assailing the notice dated 07.03.2005 issued by the Gram Panchayat, Bhadrachalam, Khammam District and seeking a consequential direction to the said Gram Panchayat and the Mandal Revenue Officer, Bhadrachalam, Khammam District,

not to remove the existing windows on the western side of the petitioner's building bearing Door No.3-1-4/1, Raja Veedhi, Bhadrachalam, Khammam District.

2. By order dated 26.04.2005, this Court granted interim stay of the operation of the impugned notice. This order was made absolute on 23.06.2008.

3. Despite the lapse of over a decade, none of the respondents have chosen to file a counter-affidavit.

4. Perusal of the impugned notice reflects that the Gram Panchayat, Bhadrachalam, issued the same in exercise of powers conferred by Section 121 of the Andhra Pradesh Panchayat Raj Act, 1994 (for brevity 'the Act of 1994'). This provision requires building construction or any addition or alteration thereto to be made only with the permission of the Gram Panchayat, granted in accordance with the provisions of the rules and bye-laws made under the said Act. However, the impugned notice does not categorize the installation of windows on the western side of the petitioner's building to be without permission. It appears that some dispute was raised by the neighbour and on the basis thereof, the Gram Panchayat directed the petitioner to remove the windows and close the wall within seven (7) days. As it is not for the Gram Panchayat to enter into such civil disputes between neighbours, recourse to the provisions of Section 121 of the Act of 1994 was without basis. Unless it is the case of the Gram Panchayat that any construction or addition/alteration thereto is made without due permission, it cannot exercise powers under Section 121 of the Act of 1994.

5. On this short ground, the impugned notice dated 07.03.2005 is liable to be invalidated and is accordingly set aside. This order shall

however not preclude the parties from taking appropriate action, if warranted, in accordance with law.

6. The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

SANJAY KUMAR, J.

Date: April 30, 2015.

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HON’BLE SRI JUSTICE SANJAY KUMAR

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