

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA
REDDY**

WRIT PETITION No.42000 of 2015

–
28.12.2015

Between:

P.Rama Krishna Rao

.. Petitioner

and

The Executive Officer, Panchayat Office,
Peddaparapudi Gram Panchayat, Krishna District and others

.. Respondents

Counsel for the petitioner: Mr.Prakash Chakravarthy

Counsel for respondent Nos.1 to 3: --

Counsel for respondent No.4: Assistant Government Pleader for Revenue
(AP)

Counsel for respondent No.5: Assistant Government Pleader
for Panchayat Raj (AP)

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to declare the action of respondent Nos.1 to 3 in unlawfully trying to interfere with the petitioner's peaceful possession and enjoyment of the land admeasuring Ac.0.66 cents in survey No.130/4 and Acs.1.27 cents in survey No.192, in total Acs.1.93 cents, situated at Peddaparapudi Gram Panchayat, Peddaparapudi Village and Mandal, Krishna District, as illegal and arbitrary.

A perusal of the description of the respondents shows that the petitioner has impleaded three functionaries viz., Executive Officer, Secretary and Sarpanch of the Panchayat Office, Peddaparapudi Gram Panchayat.

Under Section 30 of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act'), a whole-time or a part-time Executive Authority shall be appointed by the Commissioner for any Gram Panchayat or for any group of contiguous Gram Panchayats, which may be notified by him in this behalf. Section 2(12) of the Act defined 'Executive Authority' as the Panchayat Secretary appointed to each Gram Panchayat. However, in case of every Gram Panchayat, where no such notification has been issued, the Sarpanch of the Gram Panchayat, as per the Rules prescribed, exercises the powers and performs the functions of the Executive Authority. Thus, under the scheme of the Act, wherever Executive Authority is appointed for a Gram Panchayat, he will be called as Panchayat Secretary and therefore, they cannot be impleaded as two separate functionaries.

In view of the above legal position, this Court has called upon the learned counsel for the petitioner to explain as to whether

impleadment of both Executive Officer and Secretary as respondent Nos.1 and 2 was in accordance with the scheme of the Act. The learned counsel for the petitioner has failed to answer this query and stated that for disposal of this case, there is no need to address this aspect. In my opinion, the learned counsel for the petitioner has not only failed to take minimum care while preparing the case, he has also failed to satisfy this Court on the query as to whether both functionaries, viz., Executive Officer and Secretary exist for a Gram Panchayat. As the Writ Petition suffers from a serious defect regarding joinder of parties, the same is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.54170 of 2015 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

28th December, 2015
GHN