

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.39697 of 2014 & 2417 of 2015

Dated : 02.07.2015

W.P.No.39697 of 2014

Between:

Rangineni Naresh @ Naresh Naidu
S/o.Venugopala Rao,
Aged about 27 yrs, Occu : Software Engineer,
R/o.1294, Bridgeford, Dr-NW, Huntersville,
North Carolina –28078, U.S.A.
Rep., by its General Power of Attorney Holder,
Rangineni Lalitha W/o.Rangineni Venu Gopala Rao,
Aged 53 yrs, Occu : Housewife, R/o.Tadigadapa village,
Penamaluru Mandal, Krishna District.

.. Petitioner

And

State of Andhra Pradesh, rep., by its
Principal Secretary to Government,
Panchayat Raj & Rural Development Department,
Secretariat, Hyderabad & 3 others

.. Respondents

W.P.No.2417 of 2015

Between:

Sree Avenue Apartment Owners Association,
Rep., by its Secretary Raparla Srinivasa Rao,
S/o.Paramdhamaiah, Aged about 45 yrs,
R/o.D.No.8-176. Plot No.C-403,
Sree Avenue Apartmemts, Tadigadapa Village,
Penamaluru Mandal, Krishna District.

.. Petitioner

And

State of Andhra Pradesh, rep., by its
Principal Secretary to Government,
Panchayat Raj & Rural Development Department,
Secretariat Buildings, Hyderabad & 5 others

.. Respondents

This Court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.39697 of 2014 & 2417 of 2015

COMMON ORDER :

With the consent of learned counsel for the petitioners and learned Standing Counsel for Gram Panchayat, these writ petitions are disposed of, at the admission stage.

2. The petitioner in W.P.No.39697 of 2014 claims to be the owner and in possession of land to an extent of Ac.1.18 cents in Survey No.10/1A of Tadigadapa Revenue village in Penamaluru Mandal, Krishna District. The petitioner and four other neighboring owners have joined together and donated the land to an extent of 605.54 Square yards in R.S.Nos.10/1, 11/7 and 11/8 of the said village to the Gram Panchayat.

3. The petitioner in W.P.No.2417 of 2015 is an Association of Apartment Owners of Building constructed in Survey No.11/7 and 12/4 of the same village. According to it, the owner of the land i.e., M/s.Sree Constructions, (5th respondent) along with four others executed a gift deed in favour of the Gram Panchayat the land to the extent mentioned above.

4. M/s.Sree Constructions entered into a development agreement with M/s.Jhansi Developers (4th respondent in W.P.No.2417/2015) and constructed residential apartment building, in which the members of petitioner are now living.

5. The averments in the affidavit filed in support of the writ petitions by the respective deponents and the submissions during the course of hearing, would disclose

that there is serious dispute regarding the manner in which the subject extent of land was given as a gift to the Gram Panchayat. The petitioner in W.P.No.2417 of 2015 seriously challenges the competency of respondents 4 to 6 in the said writ petition to gift the said extent of land to the Gram Panchayat. The 6th respondent in W.P.No.2417/2015 is the petitioner in W.P.No.39697/2014. On the contrary, the petitioner in W.P.No.39697/2014 alleges that in violation of the gift of the subject extent of land to the Gram Panchayat for the purpose of common use as a road, the petitioner in W.P.No.2417/2015 has erected a small wall and obstructing the use of the subject extent of land as road. The petitioner in W.P.No.39697/2014 submitted a representation to the Gram Panchayat on 14.12.2014 requesting the Gram Panchayat to protect the road on the property without allowing any encroachers and duly form a road for public use. Alleging that the said representation is not acted upon, the W.P.No.39697/2014 is filed. This Court by order dated 19.01.2015, directed the Gram Panchayat (3rd respondent in both the writ petitions), to consider the representation of the petitioner and to take necessary steps in accordance with law.

6. In purported compliance of the said directions of this Court, the 3rd respondent issued proceedings dated 03.02.2015 to Sree Avenue Apartment Owners Association, directing it to remove the illegal constructions made on the subject extent of land within a period of one week. Challenging the said proceedings, dated 03.02.2015, W.P.No.2417 of 2015 is filed.

7. Learned counsel for the petitioners in W.P.No.2417 of 2015 Sri Ravi Kondaveeti submits that though it is described as a notice no prior notice or opportunity was given to the petitioner and it is an order directing the petitioner to remove the illegal constructions made and such action of the respondent-Gram Panchayat is *ex-facie* illegal. No order can be passed which results in civil and evil consequences without affording opportunity of hearing. He further submits that there was no such direction issued by this Court in W.P.No.39697/2014 and this Court only directed to take appropriate course of action on the

representation dated 14.12.2014 submitted by the petitioner therein.

8. Learned counsel for the petitioner in W.P.No.39697/2014 as well as learned Standing counsel did not dispute that there was no direction by this Court to straight away take action. This Court only directed to issue notice and take further course of action.

9. Learned Standing counsel fairly submits that impugned action should have been preceded by a notice and an opportunity of hearing to the petitioner.

10. Apparently, no prior notice or opportunity was given to the petitioner in W.P.No.2417/2015, before directing it to remove the alleged constructions made within a period of three days. Before directing the petitioner in W.P.No.2417/2015 to remove the alleged constructions made, the Gram Panchayat ought to have put the petitioner on notice and the Gram Panchayat ought not to have passed impugned orders straight away. Moreover, the direction issued by this Court was to consider the representation dated 14.12.2014 submitted by the petitioner in W.P.No.39697/2014 and pass orders as warranted by law.

11. Extensive submissions were made by the learned counsel for the petitioners. On the validity of issuance of gift deed of the said extent of land, formation of the road on the said extent of land, obstruction created by the Apartment owners Association are seriously contested by the respective parties. Since suit is pending on the issue, I am not inclined to go into the merits of the contentions urged by the respective parties.

12. Having regard to the above, the notice dated 03.02.2015 impugned in W.P.No.2417 of 2015 is set aside. The Gram Panchayat i.e., 3rd respondent is directed to issue revised notice and also supply the relevant material in support of the said notice to the petitioner in W.P.No.2417/2015. The petitioner in W.P.No.2417/2015 shall submit its explanation along with supporting documents within a period of two (2) weeks from the date of receipt of notice. The 3rd respondent shall also put on notice the petitioner in W.P.No.39697/2014 and respondents 4 to 6 in W.P.No.2417/2015 and they are also entitled to file written submissions as well as documents in support of their claim.

The Gram Panchayat shall fix a date for affording personal hearing to the parties, hear them and then pass appropriate orders as warranted by law. The entire exercise shall be completed within a period of eight (8) weeks from the date of receipt of copy of this order.

13. With the above directions, both the writ petitions are disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

P.NAVEEN RAO,J

02nd July, 2015

Note : Issue c.c. in one week

B/o.

Rds