

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

Writ Petition No.41545 of 2015

Dated 28th December, 2015

Between:

Jonnadula Subba Rao

...Petitioner

And

The State of A.P. rep.by its Prl.Secretary to Government, Panchayat Raj Department, A.P.Secretariat, Hyderabad and others

...Respondents

Counsel for the petitioner: Sri Raja Reddy Koneti

Counsel for respondent Nos.1 & 2: AGP for Panchayat Raj (AP)

The Court made the following:

ORDER:

This writ petition is filed questioning the alleged inaction of respondent No.3 in removing the alleged illegal structures raised by respondent Nos.4 to 6 over the properties in question.

On the petitioner's own showing, he has filed O.S.No.24 of 2015 in the Court of the learned Principal Junior Civil Judge, Chirala for the following reliefs:

"a) To grant Permanent injunction restraining the Defendants and their men to raise any constructions in 3 (three) Items which are shown in Plaint Plan as A, B, C and D – S1, S2, S3 and S4 – P1, P2, P3 and P4 i.e., Ways or Roads;

b) To grant Mandatory Injunction directing Defendants 1 and 2, 4 to 7 to remove the constructions raised or to be raised by defendants 4 to 7 violating the AP Panchayat Raj Act sections and Rules;

c) To award costs of the suit;

d) To grant such other reliefs that are just and necessary

in the interest of justice.”

A perusal of the prayer in the present writ petition shows that the nature of the relief in its content is similar to that claimed in the suit, though may not be in form. In the opinion of this Court, when the subject matter of dispute raised in this writ petition was already raised in a civil suit, the petitioner cannot avail the public law remedy in the guise of the plea that respondent No.3 is not carrying out its statutory duty. Evidently, the petitioner's failure to secure an order before the civil Court in the suit filed by him prompted him to file the present writ petition.

Hence, I am not inclined to adjudicate the writ petition on merits and the same is accordingly dismissed, however, without prejudice to the right of the petitioner to pursue the reliefs claimed in the above-mentioned suit. Needless to observe that the civil Court shall not be influenced by the dismissal of this writ petition while adjudicating the suit or interlocutory applications filed therein on merits.

As a sequel to dismissal of the writ petition, WP.M.P.No.53641 of 2015 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

28th December, 2015
VGB