

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.29323 of 2014

ORDER:

This writ petition is filed for a Mandamus declaring the action of respondents 2 and 3 in trying to demolish the house property of the petitioner, without considering the reply submitted by him on 12.09.2014 in response to memo dated 05.08.2014 of the 2nd respondent and notice dated 10.09.2014 of the 3rd respondent, as illegal and arbitrary, and for a consequential direction to respondents 2 and 3 not to demolish the house property of the petitioner.

It is the case of the petitioner that his grandfather was the owner of the land in Sy.No.76/10 of Chengicherla Gram Panchayat, that he developed the said land and got the layout approved by the then Gram Panchayat and later his father succeeded to plot Nos.94/A, 94/B, 94/C and 94/D in the said layout and gifted the same to him. The petitioner contends that, after execution of gift deeds in his favour by his father, he obtained permission from the Gram Panchayat and made constructions in the said land. The petitioner further contends that at the instance of respondent No.4, who is having political rivalry with him, the 2nd respondent-District Panchayat Officer issued memo dated 05.08.2014, alleging that he has made illegal construction of water plant in the land earmarked for park in Sy.No.76/10 and directed the 3rd respondent-Executive Officer of Chengicherla Gram Panchayat to take action for removal of the said water plant and restore the place earmarked for park. Thereupon, the 3rd respondent issued notice dated 10.09.2014 directing the petitioner to remove the alleged unauthorized structures within seven days of receipt of the notice. The petitioner contends that pursuant to the said notice, he submitted his explanation dated 12.09.2014 to respondents 2 and 3, bringing the relevant facts to their notice, but without considering the same, they are trying to demolish his property.

Respondent No.3 filed a detailed counter-affidavit, wherein it is *inter alia* stated that in the layout made by the grandfather of the petitioner, an extent of 888 square yards was shown to have been earmarked for park, and that the then

Panchayat Secretary, without verifying the said fact, granted permission to the petitioner for making constructions in the said land. It is further stated that on the complaint made by the villagers about conversion of park into residential purpose by the petitioner, the then Divisional Panchayat Officer conducted an enquiry and submitted a report to the 2nd respondent and pursuant thereto, the 2nd respondent issued memo dated 05.08.2014 directing the 3rd respondent to take steps for removal of illegal constructions made by the petitioner and thereupon, the 3rd respondent issued the notice dated 10.09.2014. It is further stated that the petitioner has submitted his explanation to the said notice on 12.09.2014 and without waiting for the orders from the authorities, straightway filed the present writ petition.

Respondent No.4, who claims to be the purchaser of plots in the layout made in Sy.No.76/10, also filed a counter-affidavit on similar lines.

Heard the learned counsel appearing for the parties and perused the material available on record.

While it is the contention of the petitioner that he made constructions after obtaining due permission and in accordance with the approved plan, respondent No.3 has taken a stand that permission was granted by the then authorities without verifying the fact that the land in question was earmarked for park. At any rate, since the petitioner is stated to have submitted his explanation to the impugned notice on 12.09.2014, it is for the concerned authority to consider the same and take appropriate action in the matter.

In the circumstances, the 2nd respondent is directed to consider the explanation submitted by the petitioner in response to the notice issued by the 3rd respondent and, after providing an opportunity of hearing to the petitioner as well as the 4th respondent, take appropriate action within a period of three weeks from the date of receipt of a copy of this order. Till such time, status quo obtaining as on today shall be maintained by the parties.

With the above directions, the writ petition is disposed of.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

A. RAJASHEKER REDDY, J

16th April, 2015

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