

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.19617 of 2015

Dated : 01.07.2015

Between:

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Guduri Venkataramasetty, S/o.Somanna,
Aged 70 yrs, R/o.Rayakuduru Village and Gram Panchayat,
Veeravasaram Village, West Godavari District.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Panchayat Raj Department,
A.P. Secretariat Buildings, Hyderabad & 4 others

.. Respondents

This Court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.19617 of 2015

ORDER :

With the consent of learned counsel for the petitioner and learned Standing counsel representing the 2nd respondent-Gram Panchayat, this writ petition is disposed of at the admission stage.

2. The petitioner claims to be the owner of land admeasuring 183 Square yards in Survey No.304/1 of Rayakuduru village of Veeravasaram Mandal, West Godavari District. The above property is said to have been purchased by the petitioner in the year 2010 and he has constructed a house in the said premises. The petitioner is aggrieved by the notice dated 19.06.2015 issued by the 2nd respondent, alleging that he has constructed an Asbestos sheet shed without obtaining permission from the Gram Panchayat and the property on which such construction was made is Government poromboke land and no such construction can be made, he was directed to remove the constructions within a period of seven days.

3. Learned counsel for the petitioner contends that no notice was given before passing such orders. Though it was termed as a notice, it is an order directing the petitioner to remove the constructions made. The notice also refers to an order passed by this Court. Neither the writ petition number nor the details of the order are furnished to him. Learned counsel further submits that the order is liable to be set aside on the sole ground that it is an innocuous order and does not contain the details and no relevant documents are furnished to him and an order having civil and evil consequences cannot be made without affording opportunity of hearing.

4. Learned Standing counsel fairly submits that apparently notice was not properly made and it does not refer to the details of an

order passed by this Court.

5. A plain reading of the notice impugned in the writ petition would clearly show that it was not preceded by an opportunity of hearing. The notice lacks essential details which are required to take penal action against a person. The notice also refers to a decision of this Court, but has not furnished any details. It also refers to the proceedings of the Tahsildar dated 01.03.2012, but does not disclose as to what was the direction of the Tahsildar and no copy of such proceedings was furnished to the petitioner. As the fundamental principles were not observed before taking such coercive decision, the order is liable to be set aside on the sole ground. Any order passed by the authority which results in civil and evil consequences, has to be preceded by a notice containing all the essential details. If any document is relied upon in support of allegation made, the same should be supplied and shall grant reasonable opportunity to submit explanation and if necessary personal hearing. All these essential requirements are not observed and therefore, the impugned order is not sustainable and is liable to be set aside.

6. Accordingly, this writ petition is allowed setting aside the impugned notice dated 19.06.2015, leaving it open to the 2nd respondent to proceed in accordance with law concerning the subject property in issue. There shall be no order as to costs.

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

P.NAVEEN RAO,J

01st July, 2015

Rds