

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

WRIT PETITION NO.32550 OF 2011

DATED:25-6-2015

Between:

The Kanekal (Major) Gram Pancyahat
Kanekal Village & Mandal
Ananthapur District
Rep. by its Secretary
G. Palakondaiah ... Petitioner

And

APSRTC
Rep. by its Chairman & Managing Director
Musheerabad
Hyderabad
and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. A. Chandraiah Naidu

COUNSEL FOR RESPONDENT NOs.1 to 4: Mr.Aravala Rama Rao,
Standing Counsel for APSRTC.
COUNSEL FOR RESPONDENT NOs.5 & 6: A.G.P. for Home (AP)

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a Mandamus to declare the action of respondent Nos.1 to 4 in raising constructions unauthorizedly in the petitioner's Gram Panchayat land and preventing it from removing the illegal encroachments made by respondent Nos.2 to 4 in the Gram Panchayat land, as illegal and arbitrary. The petitioner sought for further declaration that the action of respondent Nos.5 and 6 in preventing it from removing the encroachments, instead of giving police aid to remove the encroachments made by respondent Nos.2 to 4, as illegal and arbitrary and contrary to Section 138 of the Andhra Pradesh Panchayat Raj Act, 1994 (for short, 'the Act'). The petitioner also sought for a direction to respondent Nos.1 to 4 not to make any further construction activities on the petitioner's land without obtaining permission from it.

There is a long standing dispute between the petitioner on one side and respondent No.1 – Corporation on the other. While it is the case of the petitioner that the land in Sy. No.875/3B1 of Kanekal Village is vested in the petitioner and at the request of respondent No.1 an extent of Ac.0.25 cents was allotted to it for construction of Andhra Pradesh State Road Transport Corporation Bus Stand, it is the pleaded case of respondent No.1 that vide proceedings in Roc No.336/99, dt.29.7.1999, the Mandal Revenue Officer has allotted Ac.0.90 cents in Sy. Nos.875/3A2 and 875/3B to respondent No.1 and the possession was handed over on the same day. Though the petitioner asserts that the land is vested in it, no evidence in support thereof has been filed by it.

Ordinarily, all the lands other than private lands are vested in the

Government. Under the Act, certain properties and works are vested in Gram Panchayats, such as, public roads in Gram Panchayats (under Section 53 of the Act), communal property or income in Gram Panchayats (under Section 55 of the Act), Maintenance of Irrigation works (under Section 56 of the Act), management of ferries etc., in Gram Panchayats (under Section 57 of the Act), and certain porambokes, such as grazing grounds, threshing floors, burning and burial grounds, cattle stands, carts tanks and topes, which are at the disposal of the Government and are not required by them for any specific purpose (under Section 58 of the Act). It is not the pleaded case of the petitioner that the land which is in dispute falls under any of these provisions. Therefore, it is not possible for this Court to recognize the petitioner as the owner of the land, which is allegedly in occupation of respondent No.1 – Corporation. In the absence of clear title vested in the petitioner and in the face of a serious dispute raised by respondent No.1 with regard to ownership of the petitioner over the land in dispute, it is not possible for this Court to grant any relief to the petitioner in a proceeding under Article 226 of the Constitution of India. The appropriate remedy for the petitioner is to avail the common law remedy of a civil suit seeking declaration of its title and other consequential reliefs. If such suit is filed, the Civil Court shall adjudicate the same on its own merits, without being influenced by the observations contained in this order.

Subject to the liberty given to the petitioner as above, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. Nos.40453 of 2011 and 24458 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

25-6-2015

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