

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.23441 of 2016

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the notice bearing ROC.No.16/2016, dated 05-07-2016 issued by the Panchayat Secretary, Ravulapalem Grampanchayat, East Godavari District.

Heard Sri Venkateshwar Varanasi, learned counsel for the petitioner, learned Government Pleaders for Panchayat Raj and Municipal Administration for respondent Nos.1 to 3 and Sri Ravi Cheemalapati, learned Standing Counsel for respondent No.4.

According to the petitioner, he is the owner and possessor of the land admeasuring Ac.0-26 cents in Sy.No.95/8 of Ravulapalem village and Mandal, East Godavari District and he purchased the same by way of registered sale deed, dated 13-02-2004. It is further stated that the petitioner applied for land conversion and the competent authority/Revenue Divisional Officer, Amalapuram issued proceedings vide D.Dis.M/6713/2011, dated 24-11-2011 by collecting necessary amounts for conversion. It is also pleaded that the petitioner constructed a house with the permission of respondent No.4 and residing therein.

The 4th respondent herein issued a notice bearing ROC.No.16/2016, dated 05-07-2016 asking the petitioner to stop the constructions on the ground of lack of approved layout in respect of land in Sy.No.94/95 of the 4th respondent Gram Panchayat. In response to the said notice, the petitioner herein

issued a legal notice through his counsel on 07-05-2016 and according to the petitioner the same was received by the 4th respondent on 09-05-2016 and in support of proof of the same acknowledgment is also filed as material paper along with the present writ petition. In the legal notice, dated 07-05-2016 the petitioner herein stated that his property is situated in Sy.No.95/8 but not in Sy.No.94/95 as stated in the notice, dated 05-04-2016 and that the petitioner herein also applied for land conversion and on the application made by the petitioner, the Revenue Divisional Officer, Amalapuram issued conversion proceedings on 24-11-2011. Subsequently, the 4th respondent – Panchayat Secretary issued a notice bearing ROC.No.16/2016, dated 05-07-2016, directing the petitioner to remove the illegal structures, boundary stones and shed. The said notice is under challenge in the present writ petition.

A perusal of the said notice, dated 05-07-2016 vividly discloses that the 4th respondent did neither refer to nor adverted to the contents of the legal notice got issued by the petitioner on 07-05-2016 which the 4th respondent received on 07-09-2016. Having issued the notice, dated 05-04-2016 and having received the legal notice, dated 07-05-2016, wherein the petitioner stated that his property is situated in Sy.No.95/8 and not in Sy.No.94/95 and that the Revenue Divisional Officer, Amalapuram issued conversion proceedings also on 24-11-2011, there is absolutely no justification on the part of the 4th respondent in completely discarding the legal notice got issued by the petitioner. Therefore, the impugned notice, dated 05-07-2016 issued by the 4th

respondent, by any stretch of imagination, cannot be sustained in the eye of law.

For the aforesaid reasons, the writ petition is allowed, setting aside the notice bearing ROC.No.16/2016, dated 05-07-2016 issued by the 4th respondent and the issue is remitted back to the 4th respondent for passing appropriate orders after duly considering the contents of the legal notice, dated 07-05-2016 got issued by the petitioner and after issuing notice to the petitioner and after giving opportunity of hearing.

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.V. SETHA SAI, J

August 18, 2016

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