

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

WRIT PETITION No.3016 of 2016

Dated 03.02.2016

Between:

Gamidi Babji

... Petitioner

and

-
The Saripalli Grampanchayat,
represented by its Secretary,
and others

...Respondents

Counsel for the petitioner: Ms.G.Sindhu

Counsel for respondent No.1: --

Counsel for respondent No.2: Assistant Government Pleader
for Revenue (TS)

Counsel for respondent No.3: Assistant Government Pleader for
_____ Panchayat Raj and Rural Development (AP)

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The Court made the following:_____

ORDER:

This writ petition is filed for a *mandamus* to declare the action of respondent No.1 in interfering with the petitioner's peaceful possession and enjoyment of the site admeasuring 900 sq.yds. situated adjacent to his land admeasuring Acs.0.91 cents in R.S.No.311 of Saripalli Village, Narsapur Mandal, West Godavari District, as illegal and arbitrary.

On the petitioner's own showing, he is in possession of a public property, without permission. The only plea raised by him is that since the subject land is a Government poramboke, which is vested in the Revenue department, respondent No.1 has no right to interfere with his possession. Such a plea coming from a person, who has admittedly encroached upon a public property, cannot be permitted to be raised. The jurisdiction under Article 226 of the Constitution of India being discretionary, this Court would not protect any person, who had

encroached upon a public property, based on a subtle distinction between the Revenue department and the Panchayat Raj department.

When there is no conflict between the Panchayat Raj department and the Revenue department, it hardly makes any difference whether the Gram Panchayat or the Revenue department owns the subject land, which is in occupation of the petitioner. In the absence of any enforceable right in the petitioner over the subject land in his occupation, he is not entitled to invoke the public law remedy under Article 226 of the Constitution of India.

For the aforementioned reasons, I do not find any merit in the Writ Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.3823 of 2016 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

03rd February, 2016

GHN