

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

WRIT PETITION No.39741 OF 2012

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue a Writ, Order, or Direction, more particularly one in nature of Writ of MANDAMUS declaring the action of the respondents No.1 & 2 in constructing culvert and septic tank abutting/ adjoining the Petitioner's house No.4-22 of Kotha Cherukupalli Village, Bhogapuram Mandal, Chitti Valasa PO, Viziayanagaram District without issuing notice or affording opportunity to the Petitioner or following due process of law under A.P. Gram Panchayat Raj Act as bad in law and violative of principles of natural justice and consequently direct the Respondents 1 to 4 to allow the Petitioner to use the pathway abutting the Petitioner's House No.4-22 of Kotha Cherukupalli Village, Bhogapuram Mandal, Chitti Valasa PO, Viziayanagaram District without any hindrance whatsoever, in the Interest of Justice and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

2. Heard Sri B.Sudhakar Reddy, learned counsel for the petitioner, Sri Ravi Cheemalapati, learned standing counsel for the 1st respondent and learned Government Pleader for Panchayat Raj for the respondents 3 and 4.

3. According to the petitioner, he is the owner and possessor of the house bearing No.4-22 of Kotha Cherukupalli Village, Bhogapuram Mandal, Chitti Valasa PO, Vizianagaram District and there is open space of about 2-4 feet around the house of the petitioner for ingress and egress of his family members and neighbours. It is further alleged in the affidavit that due to political rivalry in the village, the former Sarpanch and the 1st respondent caused issuance of notice, alleging that the petitioner is obstructing the free flow of water by setting steel rods in the neighbourhood. It is further averred that there is a contemplation to construct culvert and septic tank in the pathway to the house of the petitioner. According to the petitioner, he also gave a complaint to the A.P. State Human Rights Commission, Hyderabad, against the 1st respondent. It is further stated in the affidavit that the 1st respondent came to the location two days back and gave measurements to private contractor of Vizianagaram for construction of culvert and septic tank adjoining/abutting the petitioner's house. Pleading in the manner indicated supra, the present writ petition came to be filed.

4. This Court, on 31.12.2012, issued notices to the respondents. Responding to the notices issued by this Court, a counter affidavit deposited by the Panchayat Secretary of the 1st respondent Gram Panchayat is filed on behalf of the

respondents 1 and 2, stating *inter alia* that the Cherukupalli Gram Panchayat consists of Kotha Cherukupalli and Patha Cherukupalli and the local area people of Kotha Cherukupalli made a representation to the Gram Panchayat with a request to construct a drainage canal and for maintenance of proper sanitation and the Gram Panchayat, thereupon passed a resolution on 15.11.2012, for construction of C.C. Drain to connect the main drainage canal at Kotha Cherukupalli area and after physical verification of the area, the Mandal Engineering Officer, gave estimation for Rs.12,000/- vide proceedings dated 17.11.2012. It is also averred that the construction of the C.C. drain in area is with a width of 2 feet and the Mandal Engineering Officer, Bhogapuram, vide proceedings dated 17.11.2012, accorded technical sanction also and the work is in progress. It is further stated that the C.C. drain is necessary for free flow of drainage water and the petitioner is unnecessarily obstructing the development activity taken up by the Gram Panchayat. It is further stated that earlier the petitioner and two others planted steel rods, obstructing the free flow of drainage water and the Panchayat Secretary issued notices to the petitioner and two others for removal of the same and for which, the petitioner made a complaint against the Panchayat Secretary before A.P.State Human Rights Commission and after submission of report by the District Panchayat Officer, Vizianagaram, the said complaint was found to be false. The counter further denies

the allegation of construction of culvert and septic tank in the pathway to the petitioner's house. No reply affidavit is filed disputing the averments in the counter affidavit.

5. Having regard to the categoric averments in the counter affidavit, as regards the passing of resolution and the sanction accorded by the Mandal Engineering Officer and the closure of the earlier complaint made before the A.P.State Human Rights Commission, this Court does not find any valid reason to grant any relief in favour of the petitioner herein.

6. For the aforesaid reasons, writ petition is dismissed. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

20.12.2016
SS

A.V.SESHA SAI, J