

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.12107 OF 2016

ORDER:

The writ petition is filed questioning the notice dated 01.04.2016 issued by the 3rd respondent-Gram Panchayat directing the petitioners to remove the alleged encroachments without affording any opportunity and contrary to the report dated 10.03.2016 of the Mandal Surveyor, Anantapur.

As per the notice dated 01.04.2016, 1st petitioner is alleged to have encroached the 40 feet road at L.P.No.106/77 in front of his house and made some constructions. Making such allegations, a Writ Petition No.28730 of 2015 had also been filed by one C. Venkata Swamy against the District Panchayat Officer, Ananthapur District and others for not taking any action against the petitioners herein for the alleged encroachments. In the impugned notice, a reference has also been made about the said writ petition. Thereafter, the appellate authority directed enquiry to be conducted with respect to the said allegations against the petitioners and to take necessary action. Further, the Mandal Surveyor accompanied by Revenue Divisional Officer after verification had prima facie come to the conclusion that the 1st petitioner had encroached into 40 feet road and consequently he was directed to remove the alleged encroachments within a period of seven days. Like wise, a similar notice was also issued to the 2nd petitioner to remove the encroachments made by him.

It is the contention of the petitioners that as directed by this Court in W.P.No.28730 of 2015, no enquiry was conducted and without giving any opportunity merely based on the report dated 10.03.2016 submitted by the Tahsildar, the impugned notice directly directing the 1st petitioner to remove the alleged encroachments was issued. As a matter of fact, the petitioners had denied the allegations and submitted their explanations on 06.04.2016.

On the other hand, learned Government Pleader for Panchayat

Raj denies any explanations having been submitted by the petitioner and he contends that the same has not been placed on record in the writ petition.

Having considered the rival submissions as it is the case of the petitioners that the explanations have been submitted on 6.4.2016, the same might not have been placed along with the writ petition which is filed on 11.3.2016. In that view of the matter, there is no reason for this Court not to believe the word and submissions made by the learned counsel for the petitioners that the explanations were submitted on 6.4.2016. Further, though in the impugned notice there was a reference to earlier notices having been given the respondents did not place the same on record. Be that as it may be as the petitioners categorically deny about receiving of the notices earlier, the impugned order shall be treated as a notice to the petitioners and the explanations submitted by them shall be considered in accordance with law. Petitioners shall also be given the opportunity of hearing to rebut the allegations by making submissions. Further, the petitioners shall also be entitled to make submissions with respect to the report of Mandal Surveyor dated 10.03.2016.

In the circumstances, the writ petition is disposed of directing the respondents 3 and 4 to consider the objections raised by the petitioners and pass appropriate orders within a period of six weeks from the date of receipt of copy of the order. Till such time, the objections raised by the petitioners are considered, no coercive action shall be taken against the petitioners.

With the above direction, the writ petition is disposed of. No order as to costs.

In view of the disposal of the main writ petition, Miscellaneous petitions, if any pending in the writ petition, shall also be closed.

CHALLA KODANDA RAM, J

Dated:12.04.2016
Gk

Date:12.04.2016

Gk