

HON'BLE SRI JUSTICE A.V. SSHA SAI

WRIT PETITION No. 1049 OF 2012

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue appropriate writ or order or direction more particularly one in the nature of writ of mandamus declaring action of the 3rd respondent in seeking to demolish/remove the poultry sheds constructed by the petitioner in his lands in Sy.Nos. 414/1 and 414/2 situated in Chinakondepudi Village, Sitanagaram Mandal, East Godavari District in pursuance of the urgent notice dated 22.12.2011 in spite of pendency of revision along with stay application before 4th respondent as illegal, arbitrary and unjust and consequently direct the 3rd respondent not to demolish/remove the poultry sheds pending disposal of the revision on the file of the 4th respondent.”

Heard learned counsel for the petitioner, Sri K. Venkatesh, learned Government Pleader for Panchayat Raj for respondent Nos.1, 2 and 4 and Sri Ravi Cheemalapathi for the 3rd respondent, Gram Panchayat, apart from perusing the material available before this Court.

According to the petitioner, he is the owner of the land, admeasuring Ac.0.76 cents in Sy.No.414/2 and his wife owns an extent of Ac.1.00 in Sy.No.414/1 of Chinakondepudi Village, Sitanagaram Mandal, East Godavari District. It is stated that the 3rd respondent, Gram Panchayat, vide resolution No.21, dated 14.07.1998, accorded permission in favour of the petitioner for construction of poultry shed in Sy.No.414/2 and accordingly, the petitioner constructed the same in accordance with the plan approved by the Gram Panchayat. It is further stated that the petitioner made an application to the 3rd respondent, Gram Panchayat, for construction of two more poultry sheds during the year 2009 and the Gram Panchayat vide resolution No.49, dated 12.02.2009, adjourned the same. It is also stated that earlier the 3rd respondent, Gram Panchayat, on a complaint of certain villagers, issued urgent notice, dated 23.06.2011, stating that the petitioner constructed two poultry sheds without

obtaining permission from the Gram Panchayat and other authorities like Pollution Control Board and Medical and Health Department and that the petitioner submitted an explanation on 30.06.2011 and thereafter, on 22.12.2011, the 3rd respondent, Gram Panchayat, issued an urgent notice, asking the petitioner to remove the poultry sheds within a period of seven days. Assailing the validity of the said notice, dated 22.12.2011, the petitioner filed revision on 30.12.2011 before the State Government, 4th respondent, under Section 264 of the A.P. Panchayat Raj Act, 1994 (for short, “the Act”). In the above background, the present Writ Petition came to be filed.

This Court, while ordering notice on 19.01.2012 in WPMP.No.1298 of 2012, issued interim direction against the demolition of the poultry sheds of the petitioner. Responding to the said notice, a counter affidavit, deposed by the Secretary of the 3rd respondent, Gram Panchayat, is filed along with an application to vacate the interim order passed by this Court. It is stated in the said counter affidavit that on a complaint made by the villagers including the Upa Sarpanch and 12 ward members, the Gram Panchayat initiated the impugned action.

WPMP.No.9222 of 2013 is also filed by a villager to implead him as respondent No.5 in the Writ Petition and the same is allowed today vide separate order. In the affidavit filed in support of the said application the implead petitioner supported the respondents and stated that he made a representation before the grievance cell of the District Collector, East Godavari, and the Tahsildar, Sitanagaram Mandal, conducted enquiry and submitted report to the District Panchayat Officer at Kakinada. It is further stated that the writ petitioner applied to the 3rd respondent, Gram Panchayat, for permission only for construction of one shed and later constructed other two sheds in the years 2003 and 2008 and did not take any precautionary measures to prevent the outflow of

wastage from the farm into the canal. It is further stated that pursuant to the report submitted by the E.O. (Panchayat Raj and Rural Development) the Tahsildar, the 2nd respondent, directed the 3rd respondent, Gram Panchayat, to take immediate necessary action for removal of unauthorized structures and accordingly, the 3rd respondent issued urgent notice, dated 22.12.2011, asking the writ petitioner to remove the poultry sheds.

According to the counter affidavit filed on behalf of the Gram Panchayat, the revision filed by the petitioner is still pending before the State Government.

The interim order granted by this Court on 19.01.2012 has been in existence for all these years and since the petitioner has availed the statutory remedy of revision under Section 264 of the Act and as the same is pending consideration before the State Government, this Court is of the considered opinion that the ends of justice would be served if the said revision is directed to be disposed of by the 4th respondent, State Government, by fixing some time frame.

For the aforesaid reasons, the Writ Petition is disposed of, directing the 4th respondent, State Government, to dispose of the revision, dated 30.12.2011, filed by the petitioner against the urgent notice, dated 22.12.2011, issued by the 3rd respondent, Gram Panchayat, within a period of three months from the date of receipt of a copy of this order, after giving notice to all the stakeholders, including the writ petitioner and the respondents. Till such exercise attains finality, the interim order, dated 19.01.2012, granted by this Court in WPMP.No.1298 of 2012 shall continue to operate.

Miscellaneous petitions, if any, shall also stand disposed of. No costs.

A.V. SESA SAI, J

Date: 13.12.2016
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