

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.44702 of 2016

ORDER:

Heard Mr.Nageswar Rao Palle, counsel for petitioner and Mr.G.Narender Reddy, counsel for respondent No.5.

On 21.12.2016, at request of learned Standing Counsel for respondent No.5, the writ petition has been adjourned to today.

Petitioner challenges communication No.135/2016/A2-Panchayat, dated 06.12.2016, and communication/notice No.762/GPT/2016, dated 07.12.2016, as illegal, arbitrary and violative of principles of natural justice.

Briefly stated, the case of petitioner is that he is the absolute owner and possessor of 160 square yards in Plot No.06/part in Survey No.545, situated at Toopran Village, Medak District and has obtained permission for construction of building on 31.03.2016. It is his case that when he has been constructing the building as per the sanctioned plan, to his dismay and surprise, communications impugned in the writ petition have been issued. Firstly, findings against the identity of the property are recorded and secondly, neither respondent No.3 nor respondent Nos.4 and 5 afforded opportunity to petitioner. Hence, prays for setting aside the communications impugned in the writ petition.

Respondent No.5 filed counter-affidavit setting out in detail the reasons for issuing the communications impugned in the writ petition.

For the nature of order I am proposing to pass and having regard to the stand taken by Mr.Narender Reddy, I am not adverting to the merits of the controversy.

Admittedly, on 25.11.2016, one B.Janardhan Reddy seems to have given complaint on the construction allegedly undertaken in Survey No.545. Respondent No.4 on 02.11.2016, submitted a report. Basing on the complaint, dated 25.11.2016, read with report, dated 02.11.2016, respondent No.3 issued impugned communication, dated 06.12.2016. Respondent No.3 did not hear the petitioner and respondent No.4 through communication/notice, dated 07.12.2016, executes the communication, dated 06.12.2016.

Prima facie, the entire procedure followed by respondent Nos.3 to 5 for recording findings against petitioner and further directing the petitioner not to undertake construction is not in accordance with the provisions of the Andhra Pradesh Panchayat Raj Act, 1994 or principles of natural justice.

The communications impugned are set aside on this short ground. If respondent Nos.3 to 5 perceive illegality either in the permission granted to petitioner or there is dispute on the identity of the property, liberty to issue notice to petitioner is given and respondent Nos.3 to 5 thereafter, proceed in accordance with law.

Writ petition is ordered as indicated above.

As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

Dt:29.12.2016
kdl

