

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

WRIT PETITION No.2427 of 2009

ORDER:

This writ petition filed under Article 226 of the Constitution of India challenges the order of respondent No.1 in A3/3528/2008, dated 31.12.2008 and the notice, dated 09.06.2008, issued by respondent-Gram Panchayat.

Heard Sri I.Koti Reddy, learned counsel for the petitioner, Sri G.Narender Reddy, learned Standing Counsel for respondent Nos.1 and 3 and learned Government Pleader for Panchayat Raj for respondent No.2.

According to the petitioner, he is the owner of house bearing No.4-18 situated at Gangapur Village, Jadcherla Mandal, Mahabubnagar District having acquired the said property by way of inheritance from his father. It is stated that the father of the petitioner purchased the neighbour's tiled house from one Mohd.Basheeruddin for a valid consideration and thereafter, his sons executed an unregistered sale deed, dated 01.03.1988, confirming the sale effected by their father. According to the petitioner, his ancestral house and the purchased house are situated side by side and there is a gap of 2 ½ -3 feet in between the said houses. It is further averred that the petitioner started construction of compound wall around his two houses. It is stated that the Gram Panchayat issued a notice on 08.09.2008, directing the petitioner to remove the said

compound wall on the ground that the same is causing obstruction to the general public. It is alleged that the Gram Panchayat issued the said notice at the instance of respondent No.2 and that questioning the said notice, the petitioner approached respondent No.2 requesting to set aside the orders and respondent No.2 without giving any opportunity of personal hearing and without verifying the site, passed order, dated 31.12.2008.

This Court while issuing Rule nisi on 11.02.2009, granted interim suspension as prayed for.

In response to the Rule nisi issued by this Court, a counter-affidavit deposited by the Panchayat Secretary, Gangapur Gram Panchayat, is filed, stating *inter alia* that respondent No.2-District Panchayat Officer personally visited the petitioner's residence on a representation made by one Sri Srinu, S/o.Chukka Sailu, R/o.Gangapur, wherein he stated that the petitioner constructed a compound wall obstructing the pathway of 3 feet by the side of his residence and the said pathway is called as 'Seri Sandu', which is being used by the villagers as pathway. It is further stated that the petitioner without obtaining any permission or consent from the Gram Panchayat constructed compound wall obstructing the villagers from using Seri Sandu. It is also stated that the petitioner was informed in advance of the inspection by respondent No.2 and that he was intentionally not present and avoided the inspection conducted by respondent No.2. It is stated that the Panchayat

Secretary on 09.01.2009, issued a notice, requesting the petitioner to remove the wall constructed in 3 feet and despite the said notice, there was no response from the petitioner, as such, the Gram Panchayat sought police protection on 18.01.2009 and removed the illegal structures raised by the petitioner with the help of the staff of Gram Panchayat.

No reply affidavit is filed, denying the events which took place on 09.01.2009 and 18.01.2009, as stated in the counter-affidavit.

The present writ petition was filed on 10.02.2009 and the writ affidavit is silent as to the events which took place on 09.01.2009 and 18.01.2009 nor the writ petition questioned the above said action on the dates indicated supra. In the absence of any challenge as to the subsequent events, the petitioner herein, in the considered opinion of this Court, is not entitled for any relief from this Court.

For the aforesaid reasons, the writ petition is dismissed.

Consequently, Miscellaneous Petitions, if any pending in this writ petition shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Dt:03.11.2016.
kdl

