

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

**WRIT PETITION No.4945 of 2012**

**ORDER:**

Challenge in the present writ petition is to the notice, dated 23-01-2012 issued by the Panchayat Secretary, Chendurthi Gram Panchayat, Gollaprolu Mandal, East Godavari District.

According to the petitioner, she is a widow and belongs to Scheduled Caste, eking out her livelihood by doing coolie work. She occupied a small extent of Ac.0-04 cents in Sy.No.99 situated at K.H. Peta, Chendurthi village, Gollaprolu Mandal, East Godavari District about 15 years back and raised a small hut therein and residing therein without any interruption. It is further stated that the petitioner submitted an application before the 2<sup>nd</sup> respondent – Tahsildar, requesting to issue patta and the 2<sup>nd</sup> respondent conducted a detailed enquiry into the matter and issued house site possession certificate in her favour on 09-02-2009 by proceedings No.Rc/B420/2009. It is stated in the affidavit filed in support of the writ petition that at the instance of certain persons with vested interest, the 3<sup>rd</sup> respondent issued the impugned notice, dated 23-01-2012, demanding the petitioner to vacate the site within 24 hours.

According to the learned counsel for the petitioner, the impugned action on the part of the 3<sup>rd</sup> respondent – Gram Panchayat is violative of principles of natural justice, as the 3<sup>rd</sup> respondent did not issue any show cause notice prior to issuing the impugned notice of eviction.

This Court, while issuing *rule nisi* on 24-02-2012 granted interim direction in W.P.M.P.No.6315 of 2012, directing the respondents not to dispossess the petitioner pursuant to the impugned notice, dated 23-01-2012 and further observed that the order would not preclude the respondents from initiating action, in accordance with the A.P. Panchayat Raj Act, 1994.

No counter-affidavit is filed, opposing the writ petition.

The interim order granted by this Court as long back as on 24-02-2012 has been in existence till date. As evident from the interim order, this Court protected the interest of both petitioner as well as the respondents.

This Court find sufficient force in the submission of learned counsel for the petitioner that the impugned notice is violative of principles of natural justice as the same was not preceded by any show cause notice.

It is settled and well established proposition of law that any action on the part of the authorities, which has civil

consequence must necessarily be preceded by notice and opportunity of hearing to the persons likely to be affected by such action. In the instant case, such exercise is conspicuously absent. Therefore, this Court is inclined to set aside the impugned notice, dated 23-01-2012.

Accordingly, the writ petition is allowed, setting aside the notice, dated 23-01-2012 issued by the 3<sup>rd</sup> respondent – Gram Panchayat. However, it is open for the 3<sup>rd</sup> respondent – Gram Panchayat to proceed, in accordance with law. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

**A.V. SESA SAI, J**

November 21, 2016

*Pn*

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