

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.33728 of 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a writ of mandamus declaring the inaction of the respondent Nos.2 to 5 in considering the representation of the petitioner dated 28.7.2016, as illegal and arbitrary.

2. Heard the learned counsel for the petitioner, the learned Government Pleader for Panchayat Raj & Rural Development representing respondent Nos.1 to 3, learned Standing Counsel for fourth respondent-Gram Panchayat and learned Government Pleader for Home representing respondent No.5.

3. The petitioner and sixth respondent are residents of Vaddemanu village, Nandikotkur Mandal, Kurnool District. It is the case of the petitioner that sixth respondent has encroached Gram Panchayat road and constructed stair cases. The further case of the petitioner is that he reported the matter to the fifth respondent but no action is taken against the sixth respondent. A perusal of the record reveals that the petitioner submitted representation to respondent Nos.2 to 4 to take appropriate action against the sixth respondent. Whether the sixth respondent has encroached the Gram Panchayat road or not is purely a disputed question of fact, which cannot be gone into while exercising the jurisdiction under Article 226 of the Constitution of India. The fourth respondent is competent to decide whether the sixth respondent has encroached the Gram Panchayat Road or not.

4. At the time of the arguments, the only relief sought by the learned counsel for the petitioner is to direct the fourth respondent to consider the representation of the petitioner dated 28.7.2016, as early as possible. The learned Standing Counsel also consented for the same.

5. Having regard to the facts and circumstances of the case and also the submissions made by learned counsel for both the parties, the fourth respondent is hereby directed to consider the representation of the petitioner dated 28.7.2016, in the light of the provisions of the Andhra Pradesh Panchayat Raj Act, 1994 and the relevant Rules made thereunder, as expeditiously as possible, preferably, within a period of two months from the date of receipt of a copy of this order, after affording reasonable opportunity to the sixth respondent to put-forth his stand.

7. With the above direction, the writ petition is disposed of. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

T.SUNIL CHOWDARY, J.

September 30, 2016.

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