

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

WRIT PETITION No.18030 OF 2012

ORDER:

Though the matter appears under the caption 'Interlocutory', with the consent of the learned advocates for the parties, this Court deems it appropriate to dispose of the writ petition finally.

2. Heard Sri K.Venkatesh, learned counsel, appearing for the petitioner and learned Government Pleader for Panchayat Raj, appearing for the respondent No.1 and Sri Ravi Cheemalapati, learned standing counsel, appearing for the respondents 2 and 3.

3. According to the petitioner, he is small farmer and eaking out his livelihood by cultivating the dry land situated at Gopalapuram Village of Gokavaram Mandal, East Godavari District. It is further pleaded that the petitioner has raised cattle sheds in his land to an extent of Acres 1.52 cents situated in Survey No.77/5 and as the cattle sheds remained vacant during the year 2005, he started growing the broilers in the said sheds as the same is ancillary to the agriculture. It is further averred that the 2nd respondent – Panchayat Secretary, has issued No Objection Certificate, enabling the petitioner to establish the poultry sheds. The 2nd respondent – Panchayat Secretary, by way of notice dated

01.05.2012, which is under challenge, directed the petitioner to remove the poultry shed within a period of seven days.

4. According to the learned counsel for the petitioner, the said notice dated 01.05.2012 issued by the 2nd respondent is erroneous, contrary to law and infringes Articles 14, 19(1)(g) and 21 of the Constitution of India. It is further submitted by the learned counsel for the petitioner that after receipt of the impugned notice dated 01.05.2012, petitioner herein submitted an explanation on 09.05.2012 and without considering the same, the respondents herein are contemplating to demolish the poultry shed.

5. Reiterating the averments made in the counter affidavit filed by the 1st respondent, it is submitted by the learned Government Pleader for Panchayat Raj that without obtaining any permission from the authorities, the petitioner herein started the poultry business and the same is emanating foul smell. It is further submitted by the learned standing counsel that earlier, the Gram Panchayat issued similar notice on 29.07.2010.

6. There is absolutely no dispute with regard to the fact that after receipt of the impugned notice dated 01.05.2012, the petitioner herein submitted a reply wherein, apart from other things, he stated that earlier Gram Panchayat issued No Objection Certificate to establish poultry form and also permission to obtain electricity supply. The certificate issued

by the Panchayat Secretary, alleged to have been issued by the Panchayat Secretary, is also enclosed with the present writ petition. Since the petitioner herein submitted a reply dated 09.05.2012 in response to the impugned notice dated 01.05.2012, this Court deems it appropriate to dispose of the present writ petition by directing the respondent Gram Panchayat to consider the said reply and pass appropriate orders after giving notice and opportunity of being heard to the petitioner.

7. For the aforesaid reasons, Writ Petition stands disposed of, directing the respondent Gram Panchayat to consider the reply dated 09.05.2012, submitted by the petitioner in response to the impugned notice dated 01.05.2012 and pass appropriate orders, within a period of two months from the date of receipt of a copy of this order, after giving opportunity of being heard to the petitioner and other stake holders, if any. Till such exercise attains finality, interim order granted earlier by this Court on 21.06.2012 in W.P.M.P.No.23111 of 2012 shall continue.

8. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

27.10.2016
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