

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

WRIT PETITION No.2650 OF 2010

ORDER:

This writ petition filed under Article 226 of the Constitution of India assails the memo bearing No.736/2009-(B5)(Pts), dated 20.12.2009, issued by the District Panchayat Officer, Nizamabad District.

2. Heard Sri Venkat Reddy Thipparthi, learned counsel, appearing for the petitioner and learned Government Pleader for Panchayat Raj and Sri G.Narendar Reddy, learned standing counsel, appearing for the 2nd respondent.

3. According to the petitioner, he is the absolute owner and possessor of the premises bearing No.12-53/1, admeasuring 485.4 square yards situated at Venkatappaya Camp, Birkur Grampanchayat and Mandal, Nizamabad District and he obtained permission for erecting a hut in the premises vide Proceedings No.8/93, dated 10.04.1993 and accordingly erected the hut and residing in the said premises and he is paying the taxes to Grampanchayat regularly. It is further stated that with an intention to raise permanent construction in the said premises, petitioner herein submitted an application along with plan to the Grampanchayat on 03.12.2009 and so far the Grampanchayat did neither grant the permission nor rejected the application. It also averred

that as the respondent Grampanchyat did not refuse permission, petitioner is intending to construct the building as per the plan submitted to the Grampanchayat. While the things being so, the District Panchayat Officer, Nizamabad District, vide the impugned memo dated 21.12.2009, asked remarks on the said construction while further asking to stop the construction.

4. While ordering '*Rule Nisi*' on 09.02.2010, this Court in W.P.M.P.No.3508 of 2010, passed the following order:

"In the impugned memo, the ground alleged against the petitioner is that, he has encroached the Government land and is making construction. Even if there is any truth in that allegation, the District Panchayat Officer, is not the authority to take any action in that regard.

There shall be interim suspension as prayed for."

5. Reiterating the averments in the counter affidavit deposed by the Panchayat Secretary – 2nd respondent, it is submitted by the learned standing counsel, appearing for the 2nd respondent Grampanchayat that a complaint was made by the 3rd respondent, a resident of Birkur Village, saying that the petitioner illegally occupied Grama Kantam and as a precautionary measure, while taking cognizance of the said complaint, the District Panchayat Officer, directed the respondent to take steps to stop the illegal constructions. The learned counsel for the 2nd respondent further submits

that the case of the petitioner that District Panchayat Officer has no jurisdiction to issue the impugned memo is not tenable in view of Rule 33 of the Andhra Pradesh Gram Panchayat Land Development (Layout and Building) Rules, 2002 modified vide G.O.Ms.No.67, PR. And RD. (Pts.-IV), dated 26th February, 2002. It is further stated by the learned standing counsel that as per sub-rule (2) of Rule 33, in the case of unauthorized construction, the District Panchayat Officer is empowered to issue suitable instructions to any authority or any other body for necessary action against the unauthorized construction/layout.

6. During the course of hearing, it is brought to the notice of this Court that pursuant to the interim suspension order granted by this Court, the petitioner herein completed the construction and staying in the said house. In view of the said development, the issue raised in the writ petition as to the competency of the District Panchayat Officer to stop construction now need not be gone into and the same pales into insignificance in view of the order now proposed to be passed in the present writ petition.

7. Having regard to the above developments and facts and circumstances of the case, writ petition stands disposed of, keeping it open for the respondent authorities to proceed in accordance with law, after giving notice and opportunity to

the petitioner, if the constructions made by the petitioner are found to be illegal and unauthorized.

8. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

17.11.2016
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