

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.4387 of 2016

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Date: 11.02.2016

Between:

Yamarthi Masthan Rao

.. Petitioner

and

The State of Andhra Pradesh
rep. by its Prl.Secretary
Panchayat Raj & Rural Development Dept.,
Hyderabad and 4 others

.. Respondents

Counsel for the petitioner : Mr.Penumaka Venkata Rao

Counsel for respondent Nos.1 to 3: AGP for Panchayat Raj

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The Court made the following:

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Order:

The petitioner, who is an agriculturist of Kambampadu Village, Pedakurapadu Mandal, filed this Writ Petition feeling aggrieved by the communication issued by respondent No.4 to the petitioner to the effect that in the emergency General Body Meeting held on 02-01-2016, Kambampadu Gram Panchayat has rejected the petitioner's request for continuing the pipeline underneath the land belonging to it. Following the same, respondent No.4 has issued notice, dated 19-01-2016, calling upon the petitioner to close the pipeline and make it dummy within seven days.

The learned Counsel for the petitioner submitted that respondent No.4 has no jurisdiction to issue notice, dated 19-01-2016, as the land is, admittedly, vested in the Gram Panchayat and that therefore, the Panchayat Secretary being the Executive Authority, he alone has the jurisdiction to issue the same. He has further submitted that the Resolution passed by the Gram Panchayat on 02-01-2016 is arbitrary and illegal.

As regards the submission of the learned Counsel relating to the Resolution of the Gram

Panchayat, I am not inclined to entertain this Writ Petition for adjudication on merits for the reason that under Sub-Section 128 (2) of the Andhra Pradesh Panchayat Raj Act, 1994, an appeal shall lie to the competent authority, which is stated to be the District Panchayat Officer, against the decision of the Gram Panchayat. Therefore, the petitioner is relegated to the said forum.

As regards the consequential notice, dated 19-01-2016, the petitioner can raise the said issue in the appeal and seek appropriate interim order pending the appeal. To facilitate the petitioner to do so, the impugned notice, dated 19.01.2016, is suspended for a period of one month.

Subject to the above observations and directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.5618 of 2016, filed by the petitioner for interim order, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 11th February, 2016
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