

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.23854 of 2016

ORDER:

1 This Writ Petition is filed under Article 226 of the Constitution of India seeking writ of Mandamus, declaring the action of the respondent No.3 herein in not initiating action nor considering the representation filed by the petitioner dated 13.06.2016 seeking to remove the encroachments by the unofficial respondents adjacent to the petitioner's house as illegal, arbitrary.

2 Heard the learned counsel for the petitioner and the learned counsel for the respondent No.3 who is the contesting respondent.

3 The petitioner owned a house bearing D.No.1-77 of Chinnapulleru village, Undi Mandal of West Godavari District. The contention of the learned counsel for the petitioner is that the respondent Nos.4 and 5 have encroached the Gram Panchayat site, constructed a thatched house and using the premises for keeping hayrick and tethering cattle. Feeling aggrieved by the same, the petitioner submitted a representation to the third respondent on 13.06.2016 to take action against respondent Nos.4 and 5.

4 It is the duty of the Gram Panchayat to protect its property from encroachments. Whether the respondent Nos.4 and 5 have encroached the Gram Panchayat site or not is a disputed question of fact, which cannot be gone into while exercising discretionary jurisdiction under Article 226 of the Constitution of India. If this Court expresses any opinion with regard to the genuineness or otherwise of the allegations made by the petitioner in the absence of respondent Nos.4 and 5, the same may cause prejudice to them.

5 Having regard to the fact that the petitioner has already made a representation to the third respondent on 13.06.2016, the third respondent is hereby directed to dispose of the same in accordance

with law, after affording reasonable opportunity to both parties, as early as possible, preferably, within a period of two months from the date of receipt of a copy of this order.

6 With the above direction, this Writ Petition is disposed of. No order as to costs. As a sequel, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 22.01.2016

Kvsn