

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM
WRIT PETITION No.22591 OF 2016

ORDER:

The order dated 05.07.2016 of the 3rd respondent and the consequential proceedings dated 08.07.2016 of the 5th respondent are challenged in this writ petition.

The grievance of the petitioner is that the proceedings issued by the Gram Panchayat directing the petitioner to remove the pipeline laid by the petitioner for drawing water for irrigating the lands were challenged by the petitioner in W.P.No.4387 of 2016, which was disposed of by this Court on 11.02.2016 granting liberty to the petitioner to avail an alternative remedy of appeal available under Section 128 (2) of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'P.R. Act'). Pursuant thereto, petitioner filed an appeal on 29.02.2016 before the 3rd respondent along with stay application. No orders were passed so far either in appeal or atleast in stay petition. While so, on 05.07.2016 the 3rd respondent without referring to the appeal filed by the petitioner by merely making a reference to the orders in W.P.No.4387 of 2016 directed the petitioner to remove the pipeline immediately as otherwise action would be taken under the provisions of P.R. Act by imposing penalty.

It is the contention of the petitioner that the 3rd respondent without passing orders either in appeal or stay petition by merely referring to the orders in W.P.No.4387 of 2016 passed the impugned order, which is arbitrary and unsustainable.

Heard the learned counsel for the petitioner, learned Government Pleader and Sri Ravi Cheemalapati, learned Standing Counsel for Gram Panchayat.

The grievance of the petitioner is of not passing orders in the appeal filed by the petitioner pursuant to the directions of this Court. Though a reference of W.P.No.4387 of 2016 is made in the impugned order, neither there was a mention of the appeal filed by petitioner nor an opportunity of hearing was given to the petitioner.

In the circumstances, the impugned order dated 05.07.2016 and the consequential notice dated 08.07.2016 are set aside with a direction to the 3rd respondent to give an opportunity of hearing on the appeal filed by the petitioner and pass appropriate orders thereon after taking into consideration all the material on record. In the event, the 3rd respondent finds laying of pipeline by the petitioner is legal and permissible, necessary orders be passed. The entire exercise shall be completed within a period of three weeks from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions pending in the Writ Petition, if any, shall stand closed.

Challa Kodanda Ram, J

13th July, 2016.

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