

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

WRIT PETITION No.28428 of 2009

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, assailing the notice, dated 21-12-2009 issued by the 1st respondent – Grampanchayat asking the petitioner to vacate the landed property admeasuring Ac.3-00 cents covered by R.S.No.30 of Ramannagudem village, Dwaraka Tirumala Mandal, West Godavari District.

With the consent of learned counsel for the petitioner and 1st respondent and learned Government Pleader for Revenue for respondent Nos.2 to 4, this Court proposes to dispose of the writ petition finally at this stage.

The case of the petitioner is that there is an extent of approximately Ac.16-00 cents of Government assessed waste land in R.S.Nos.30, 31 and 38 of Ramannagudem village, Dwaraka Tirumala Mandal, West Godavari District and the same is in occupation of several landless poor persons and they have brought the same under cultivation. It is further averred in the writ affidavit that the petitioner herein occupied an extent of Ac.3-00 cents and has been cultivating the same for the last 30 years and he is a landless poor person and he is eaking out his livelihood by cultivating the said land.

The 1st respondent herein issued the impugned notice on 21-12-2009, asking the petitioner to vacate the said land by 23-12-2009 while indicating the criminal action in the event of failure to do so.

There are two contentions raised by learned counsel for the petitioner. They are:

1. *First respondent has no power or authority or jurisdiction to evict the petitioner from the subject land.*
2. *The impugned notice is liable to be set aside on the ground of violation of principles of natural justice.*

It is contended by learned counsel for the petitioner that the 1st respondent did not issue any notice nor provided any opportunity of hearing before issuing the impugned notice.

Refuting the contentions raised by learned counsel for the petitioner, it is submitted by learned Standing Counsel for the 1st respondent and also the learned Government Pleader that under Section 55 of the A.P. Panchayat Raj Act, 1994, the subject property vests in the Grampanchayat, as such, the 1st contention advanced by the learned counsel for the petitioner falls to ground.

In view of the provisions of Section 55 of A.P. Panchayat Raj Act, 1994, in the considered opinion of this Court the 1st

ground raised by learned counsel for the petitioner cannot be sustained in the eye of law.

The 2nd contention advanced by learned counsel for the petitioner is violation of principles of natural justice.

It is not the case of the 1st respondent in its counter-affidavit that the impugned notice was preceded by show cause notice and giving opportunity to the petitioner. The impugned notice also does not refer to issuance of any show cause notice to the petitioner. Therefore, this Court is of the considered opinion that the impugned notice is liable to be set aside on the ground of violation of principles of natural justice.

For the aforesaid reasons, the writ petition is allowed, setting aside the notice, dated 21-12-2009 issued by the 1st respondent – Gram Panchayat. However, this order will not preclude the 1st respondent from issuing a show cause notice and proceeding further, in accordance with law. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SESA SAI, J

October 18, 2016

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