

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

WRIT PETITION Nos.8788 OF 2012 AND 9796 OF 2012

COMMON ORDER:

Since the petitioner in both these writ petitions is one and the same and the issue involved is also similar, this Court deems it appropriate to dispose of these writ petitions by way of this common order.

2. Heard Sri S.Lakshmikanth, learned counsel for the petitioner and Sri G.Narendar Reddy, learned standing counsel for the 1st respondent – Gram Panchayat, learned Government Pleader for Panchayat Raj for the 2nd respondent and Sri J.Venkateshwar Reddy, learned counsel for the 3rd respondents in both writ petitions.

3. Petitioner herein claims to be the absolute owner and possessor of the land admeasuring 246.66 square yards situated in Survey Nos.485 and 486 of Palakurthy Village, Palakurthy Revenue Mandal, Warangal District, having purchased the said property by way of a registered sale deed bearing document No.92/2012. It is further pleaded that the petitioner herein made an application on 25.01.2012 before the 1st respondent – Gram Panchayat requesting to grant permission for construction of residential house. It is further stated that the unofficial respondents in these writ petitions made applications on 08.01.2012 and 18.02.2012

respectively for construction of houses in Survey Nos.484 and 484/A. Initially, the 1st respondent herein issued a notice dated 03.02.2012, stating that since the matters are pending in the courts, no permission would be granted in favour of anybody in respect of survey Nos.479, 484, 485 and 486. Subsequently, by way of proceedings bearing Register No.PLK/2011-12, dated 19.03.2012, 1st respondent – Panchayat Secretary, granted permission for construction of houses in favour of the unofficial respondents herein. In the above background, these writ petitions came to be filed questioning the action of the official respondents in not granting permission for construction of house in favour of the petitioner and granting permission in favour of the unofficial respondents herein.

4. It is the principal contention of the learned counsel for the petitioner herein that having refused to grant permissions earlier by way of notice dated 03.02.2012, there is no justification on the part of the 1st respondent – Panchayat Secretary in granting permission for construction in favour of the unofficial respondents herein.

5. When the writ petitions are taken up for hearing, a preliminary objection as to the maintainability of the present writ petitions is taken by the learned standing counsel for the 1st respondent – Gram Panchayat, stating that the petitioner herein has an effective alternative remedy of appeal before the

Gram Panchayat against the orders passed by the 1st respondent herein and without availing the said alternative remedy, the present writ petitions have been filed.

6. Section 128 of the A.P.Panchayat Raj Act, 1994 reads as under:

“128. Appeal from the order of executive authority:-

(1) An appeal shall lie to the Gram Panchayat from:-

(a) any order of the executive authority granting, refusing, suspending or revoking a licence or permission;

(b) any other order of the executive authority that may be made appealable by rules made under Section 268.

(2) A second appeal shall lie from the decision of the Gram Panchayat passed in an appeal under sub-section (1) to such authority as may be prescribed whose decision thereon shall be final.”

7. In view of the above provision of law, which enables the petitioner herein to file appeal against the orders of the executive authority before the Gram Panchayat, this Court is not inclined to go into merits and demerits of the present writ petitions.

8. This Court, while ordering notice, granted an order of *Status quo*. Having regard to the nature of controversy and taking into consideration the submissions made by the respective advocates, this Court is of the considered opinion that the ends of justice would be served if the petitioner

herein is permitted to avail the above mentioned statutory remedy.

9. For the aforesaid reasons, these writ petitions are disposed of, permitting the petitioner herein to file appeals against the orders impugned in the present writ petitions, as per the provisions of Section 128 of the A.P.Panchayat Raj Act, within a period of one month from the date of receipt of the order before the Gram Panchayat and if any such appeals are filed, within the time so stipulated, the same be considered and appropriate orders be passed, in accordance with law, on merits after giving notice and opportunity of hearing to all the stakeholders, within a period of one month thereafter. Till the said exercise attains finality, the orders of *Status quo* granted by this Court in W.P.M.P.Nos.11104 of 2012 and 12388 of 2012 shall continue to operate.

10. Miscellaneous petitions pending consideration, if any, in these Writ Petitions shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

15.12.2016

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