

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 5479 of 2016

Date: 22.02.2016

Between:

Janagam Narayana,
Karimnagar District.

.... Petitioner

And

The State of Telangana,
Rep. by its Principal Secretary,
Panchayat Raj & Rural Development Department,
Secretariat, Hyderabad, and others.

... Respondents

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WRIT PETITION No. 5479 of 2016

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ORDER:

Heard learned Counsel for the petitioner, learned Government Pleader for Panchatraj appearing for respondents 1 to 3 and 5 and Sri G.Narender Reddy, learned Standing Counsel appearing for respondent No.4.

The petitioner claims to be the absolute owner and possessor of the premises bearing H.No.1-81, Rampoor Village and Mandal, Karimnagar District, having succeeded the same from his ancestors. According to the petitioner, as the structures in the said premises became dilapidated, he constructed a new house therein, in accordance with the sanctioned plan and completed the same in the month of February, 2015. The fourth respondent issued a notice dated 13.04.2015 alleging that the petitioner did not leave 15 feet set back from the middle of the road. On receipt of the said notice, he approached the fourth respondent. The officials of the fourth respondent visited the subject property, conducted survey and having found that there were no deviations in the construction, they left the premises. While so, on 16.02.2016, respondent Nos.3 and 5 came to his premises and threatened to demolish the structures, without following due process of law. Hence, the petitioner filed this writ petition.

A perusal of the notice dated 13.04.2015 issued by the fourth respondent-Gram Panchayat reveals that the petitioner had constructed the house without obtaining building permission and that he had encroached 15 feet road without leaving set backs. Therefore,

the fourth respondent directed the petitioner to stay the constructions until he gets approval from Gram Panchayat.

The notice dated 13.04.2015 issued by the fourth respondent virtually amounts to 'an order' which was passed without any prior notice to the petitioner. However, as the Gram Panchayat is vested with power conferred under Section 98 of the Panchayat Raj Act, 1994, the impugned communication shall be treated as show cause notice and the petitioner is at liberty to submit his explanation within two weeks from today. If such an explanation is filed, the fourth respondent-Gram Panchayat shall consider the same and pass appropriate orders in terms of Section 98 of the Panchayat Raj Act, 1994. Till the orders are passed by the fourth respondent, there shall not be any interference with the house property of the petitioner.

Subject to the above, the Writ Petition is disposed of. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

CHALLA KODANDA RAM, J

Date: 22.02.2016

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