

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

**WRIT PETITION No.38462 of 2012**

**ORDER:**

This writ petition, filed under Article 226 of the Constitution of India, challenges the notice, dated 06-12-2012 issued by the 3<sup>rd</sup> respondent Gram Panchayat.

Heard, Sri Valupadasu Raju, learned counsel for the petitioner, learned Government Pleader for Panchayt Raj for respondents 1 and 2 and Sri G. Narender Reddy, learned Standing Counsel for 3<sup>rd</sup> respondent Gram Panchayat. Despite service of notice none appears for respondent No.4.

According to the petitioner, on the complaint made by the 4<sup>th</sup> respondent stating that the petitioner herein constructed house encroaching upon the road margin, the 3<sup>rd</sup> respondent Gram Panchayat issued a notice on 18-02-2012 asking the petitioner to remove the constructions within a period of three (3) days from the date of receipt of the notice. It is further stated that the petitioner submitted a representation denying the same and after holding enquiry the 2<sup>nd</sup> respondent submitted a report observing no encroachment on the public road. It is further stated that basing on the said report proceedings were dropped.

It is the complaint of the petitioner in the present writ petition that surprisingly the 3<sup>rd</sup> respondent issued another notice, dated 06-12-2012 once again directing the petitioner to remove the structures within 24 hours at the instance of the 4<sup>th</sup> respondent. It is the further submission of learned counsel for the petitioner reiterating the averments in the writ affidavit that the impugned notice came to be issued without verifying the records properly, as such, the impugned notice is illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India.

On the contrary, reiterating the averments in the counter-affidavit filed by the Panchayat Secretary it is vehemently contended by learned Standing Counsel Sri G. Narendar Reddy, appearing for 3<sup>rd</sup> respondent that basing on the complaint of the 4<sup>th</sup> respondent, an enquiry was conducted by the District Panchayat Officer, Warangal, who after enquiry found that the construction made by the petitioner was without permission by encroaching upon 20 feet gram panchayat road, as such, notice issued by the Gram Panchayat cannot be faulted.

It is contended by learned counsel for the petitioner that even according to the provisions of A.P. Panchayat Raj Act, 1994, which is adopted by the State of Telangana, the

impugned action on the part of the 3<sup>rd</sup> respondent in directing to remove the structures made by the petitioner without being preceded by any show cause notice cannot be sustained and is violative of Articles 14, 21 and 300(a) of Constitution of India.

It is absolutely not the case of the 3<sup>rd</sup> respondent – Gram Panchayat that the impugned notice, dated 06-12-2012 was preceded by any show cause notice and opportunity of being heard to the petitioner.

It is pertinent to note at this juncture that Article 300(a) of the Constitution of India mandates that no citizen of this country can be deprived of his/her property except, in accordance with the procedure established by law. Therefore, this Court is of the considered opinion that the ends of justice would be met if the petitioner herein is given opportunity to submit explanation to the notice, dated 06-12-2012 by directing the same to be treated as show cause notice.

For the aforesaid reasons, the writ petition is disposed of, keeping it open for the petitioner herein to submit explanation/reply to the notice, dated 06-12-2012 within a period of one month from the date of receipt of a copy of this order and it is open for the petitioner to place the entire material, if any, before the 3<sup>rd</sup> respondent along with the said

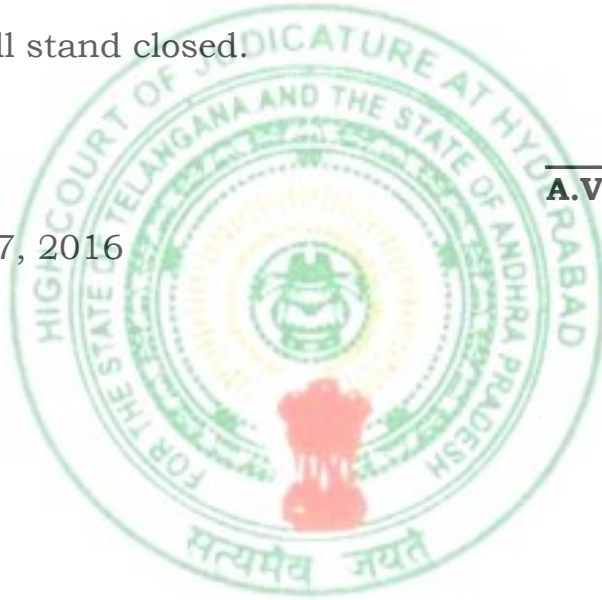
explanation/reply. It is further directed that on receipt of said explanation/reply, 3<sup>rd</sup> respondent to consider the same and pass appropriate orders, as expeditiously as possible, after providing opportunity of being heard to the petitioner. Till such exercise attains finality, *status quo* as on today with regard to the subject constructions shall be maintained. There shall be no order as to costs.

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

November 07, 2016

*Pn*

**A.V. SESA SAI, J**



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