

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.17811 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondent No.2 in issuing the Lr No.A7/585/2014-Pts, dated 29.05.2017 directing the respondent No.3 to stop the further construction immediately, If it is illegal basing on the representation dated 20.02.2017 in prajavani and also consequential letter issued by the respondent No.3 to stop the construction as arbitrary and illegal and also violative of principles of natural justice and also contrary to the provisions of the Panchayat Raj Act 1995 and also violative of Articles 14, 16 and 300A of the Constitution of India consequently set aside the same.”

2. Heard Sri V.Ravi Kumar, learned counsel for the petitioner and also the learned Government Pleader representing the respondents 1 and 2 and before notice to 4th respondent and from the notice received for 3rd respondent by the standing counsel, who offers to file vakalat and counter, and perused the writ petition affidavit and also the proceedings.

3. The impugned proceeding of stopping the construction issued by the 3rd respondent dated 30.05.2017 is despite the permission already accorded following the procedure for the construction vide proceedings dated 17.11.2016. The impugned proceeding issued is pursuant to application of the 4th respondent at prajavani on 20.02.2017 saying there are disputes pending in court and permission granted even objections raised by him to conduct a detailed enquiry and to cancel the permission therefrom. It was given to the District Panchayat Officer, Karimnagar, at the said prajavani on 20.02.2017.

4. The District Panchayat Officer, on 29.05.2017, vide proceedings in letter No.A7/585/2017-Pts., referring to the representation as reference No.1 and letter of the Extension Officer, dated 22.03.2017 as reference No.2, observed drawing attention of the Panchayat Secretary – 3rd respondent herein in directing to stop the further construction immediately, if it is illegal, as alleged by the complainant therein (4th respondent to the writ petition) until further orders from his office.

5. The very letter of the District Panchayat Officer speaks if it is found illegal, the further construction can be stopped by intimating the same for giving further orders thereon by the District Panchayat Officer. The very condition speaks unless found illegal, the question of stopping construction does not

arise. However, the impugned proceedings of the 3rd respondent – Panchayat Secretary, dated 30.05.2017, refers as if the District Panchayat Officer ordered him to stop construction and it also refers as if there are civil matters pending. The writ petition averments, particularly in Para 7, supported by the writ petitioners affidavit also speaks he came to know through his vendor that the father of respondent No.4 herein (the complainant for the issue) filed O.S.No.100/02 in Senior Civil Judge Court, Karimnagar, for declaration of title and recovery of possession in respect of three items of land which includes survey Nos.275/A of Acres 1.15 guntas of Bhopalapatnam Village of Chopadandi also and to declare the gift deeds dated 30.05.2002, vide document Nos.596/2002 and 597/2002 as null and void. That suit was dismissed and the writ petitioners vendors counter claim in the appeal was allowed by not only confirming the trial courts dismissal judgment but also declaring or cancelling the sale deed relied by 4th respondent's father covered by registered document No.1091/94 and the same is even confirmed in second appeal by its dismissal by the High Court on 06.10.2015. Once such is the case, practically unless show any special leave petition filed and admitted and pending, much less, by suspending the operation of the second appeal judgment supra, there is no pending civil *lis* for the Panchayat Secretary to hold.

6. Having regard to the above, this writ petition is disposed of, by quashing the impugned notice dated 30.05.2016, of the 3rd respondent, however, the 3rd respondent, as directed by the 2nd respondent, can conduct enquiry by requiring the participation of 4th respondent and writ petitioner with necessary documents, if any, and give a finding if at all illegal to that extent to stop further construction by relegating the matter as required by the District Panchayat Officer for further decision. Any further grievance of the writ petitioner thereafter left open.

7. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

06.06.2017

*Note: issue C.C. by tomorrow.
B/o.SS*

DR.B.SIVA SANKARA RAO,J