

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.5897 of 2008

ORDER:

Heard Sri P.Gangarami Reddy for petitioner, the Assistant Government Pleader for respondents 1 to 3, the Standing Counsel for the 4th respondent and Mrs.Smita Kakkad for the 5th respondent.

The petitioner challenges Proceedings No.A6/377/2008-1 dated 13-03-2008 as illegal, violative of principles of natural justice and unconstitutional.

The 1st respondent through the proceedings impugned in the writ petition has recorded the finding that the vacant land in existence between Plot Nos.4 and 5 in Sy.No.117/B of Badepally Village, Jadcherla Mandal, Mahabubnagar District, is a road and directed removal of granite stones dumped by one Seetaram Jawar, father of petitioner.

Learned counsel for petitioner with vehemence basing on the material brought on record contended that the vacant land between Plot Nos.4 and 5 is not a road providing access to the residents of the 5th respondent Colony and on the other hand, basing upon a few recitals, layout plan etc., it is contended that the vacant land is infact not set apart as road for ingress and egress to the residents of 5th respondent Colony. At any rate, it is contended that the impugned proceedings are violative of principles of natural justice and on that ground alone, it is liable to be set aside.

This Court is of the view that the examination of the above issue whether the vacant place is earmarked as road or a vacant plot, has to be considered and decided as a primary fact by the 1st respondent.

Admittedly, before issuing the proceedings impugned in the writ petition, the petitioner or the residents who are claiming right of entry and exit were not heard by the 1st respondent. Therefore, on the short ground that the proceeding impugned in the writ petition is issued by the 1st respondent without affording opportunity to petitioner, the impugned proceeding is set aside and the matter is remitted to the 1st respondent for fresh consideration and disposal, after affording opportunity to the petitioner as well as the 5th respondent herein.

The *status-quo* directed to be maintained by this Court on 19-03-2008 shall be continued by the parties till a decision is taken and communicated to them by the 1st respondent. The parties aggrieved by the decision of the 1st respondent can certainly work out remedies available before competent civil court.

With the above observation, the writ petition is disposed of.
No order as to costs.

Miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

S. V. BHATT, J

Dt: 14-03-2017
Prv

THE HON'BLE SRI JUSTICE S.V.BHATT



WRIT PETITION No.5897 of 2008

14-03-2017

Prv

