

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.23204 of 2017

ORDER:

Heard learned counsel for the petitioner and also the learned Government Pleader for Panchayat Raj representing respondents 1 and 5 and learned Government Pleader for Revenue representing respondents 2 and 3 and Sri G. Narender Reddy, learned Standing Counsel for respondents 4 and 6 and perused the prayer in the writ petition with supporting affidavit and the impugned notice issued to the petitioner, dated 05-07-2017 and also the counter filed on behalf of the 6th respondent – Grampanchayat.

This writ petition is filed seeking to issue a writ or more particularly in the nature of writ of Mandamus, directing the respondents herein, not to demolish the residential house of petitioner herein i.e., H.No.1-17, situated in Ward No.3 of Rampur-B village, Grampanchayat Rampur-B, Manal Sirikonda, Adilabad district, and not to dispossess the petitioner from the said house without due process of law and consequently declare the action of respondent No.6 in issuing notice bearing No.GPR/02/2017, dated 05-07-2017 and trying to demolish the house of petitioner on the false allegations of illegal encroachment, is illegal, arbitrary and

violative of Articles 14, 21 and 300-A of the Constitution of India and against the mandatory provisions of A.P. Panchayat Raj Act, 1994 and its Rules.

It is the supporting affidavit of the petitioner that there is no encroachment, there is no demarcation and the petitioner purchased the property of 26 Square yards width from one Narsinaga Rao Gadge by registered sale deed, dated 09-04-1961 and constructed a residential house way-back in 1962 and since then he is in occupation and enjoyment of the property also by paying taxes assessed by the Panchayat right from 1963-64 and the Panchayat all of a sudden issued the impugned notice as if there is an encroachment of road margin. In fact, there is no encroachment and there is no demarcation and the threatened action to demolish part of the property of the petitioner under the guise of the notice within seven days is unjust, thereby sought for the relief.

It is the submission of learned Standing Counsel for the Panchayat that there is an encroachment of approximately 2 to 3 feet of width according to the Secretary of the Panchayat and opportunity is given to explain and thereby panchayat is entitled to proceed, in accordance with law, to remove the road margin encroached, which is meant for public usage. Learned Government Pleaders are supported the same.

Undisputedly, even from the said counter version there is no demarcation, much less in the presence of the parties including the petitioner in that street covered by Ward No.3 in question. No doubt, the panchayat is entitled to maintain public roads by removal of encroachments. It is not even the case that similar notices were issued to the other residents of the said Ward.

It the panchayat has any reason to say that there is an encroachment of road margin, the panchayat shall firstly cause demarcation through survey to be conducted with notice to the parties for the presence of parties during such survey and hear their objections and after that issue show cause notice with reference to such survey and demarcation to pass orders to take recourse as per the provisions of law and without following such due process the Panchayat shall not demolish any structures.

Having regard to the above and with these observations, the writ petition is disposed of. There shall be no order as to costs

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

Dr. B. SIVA SANKARA RAO, J

July 19, 2017

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