

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 1491 OF 2017

ORDER:

This writ petition filed under Article 226 of the Constitution of India challenges the notice, dated 03.01.2017, issued by the Panchayat Secretary, Chunchupalli Gram Panchayat, Bhadrachalam, Kothagudem District.

Heard learned counsel for the petitioner, learned Government Pleader for respondent Nos.1 and 3 and Sri G. Narender Reddy, learned Standing counsel for the 2nd respondent Gram Panchayat.

In the affidavit filed in support of the writ petition, it is stated that the petitioner has purchased an open plot bearing No.52 vide unregistered sale deed, dated 30.11.2014, and constructed a house with A.C.C. roof and residing in it. The petitioner made an application, dated 28.12.2014, to the 2nd respondent Gram Panchayat requesting it to assess his house tax and when the same is pending, the Secretary of the 2nd respondent Gram Panchayat issued the notice, dated 03.01.2017, under challenge asking the petitioner to remove his house while threatening to demolish the same. It is further stated that the petitioner instituted O.S.No.578 of 2016 against one Sri Sk. Nanne for perpetual injunction on the file of the Special Assistant Agent and Sub Divisional Magistrate (Mobile Court), Bhadrachalam, and in I.A.No.649 of 2016 the said Court granted temporary injunction on 23.12.2016 and the same is subsisting. It is also stated that having failed to succeed in his attempts, the said Nanne put pressure on the respondents and the impugned notice is the result of the same.

Learned counsel for the petitioner submits that the impugned notice was preceded by any show cause notice nor the petitioner was given an

opportunity of hearing before resorting to the impugned action of asking the petitioner to remove his house, which is violative of principles of natural justice.

On the contrary, learned Government Pleader and the learned Standing counsel submit that the notice under challenge can be directed to be treated as show cause notice and the petitioner may be given an opportunity to file his explanation/objections for consideration of the respondent Gram Panchayat in accordance with law.

In view of the above submissions, the writ petition is disposed of directing that the impugned notice bearing Rc.No.6/2017, dated 03.01.2017, shall be treated as show cause notice and the petitioner is entitled to file his explanation/objections, including the objection as regards the jurisdiction of the Panchayat Secretary in issuing such notice, within a period of one month from the date of receipt of a copy of this order. If any such explanation/objection is filed by the petitioner, the respondents shall consider the same and take action in accordance with law, after giving an opportunity of hearing to the petitioner. Till such action is taken, the interim order, dated 11.01.2017, shall continue.

Miscellaneous petitions, if any pending, shall also stand disposed.
No order as to costs.

Date: 21.02.2017
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A.V. SESA SAI, J