

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THE HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.17756 of 2017

DATE: 05.06.2017

Between:

K.Malla Reddy @Mallaiah
S/o Ramreddy, 75 years,
and another

...Petitioners

and

The State of Telangana,
Rep. by its Principal Secretary,
Transport, Roads and Buildings Department
and four others

...Respondents

Counsel for the petitioners: Smt.K.Savithri Devi

Counsel for the respondents: Learned Government Pleader for
Roads and Buildings for respondents 1, 4
and 5
Sri G.Narender Reddy for respondents 2
and 3

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.17756 of 2017

ORDER :

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

“to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari issuing rulenisi calling for the records relating to notice in GP/12/2017 dt.30.5.2017 and GP/14/2017 dt.30.5.2017 issued by the 2nd respondent herein and quash the same and pass such other order or orders as this Hon'ble Court may deem think fit and proper.”

Heard learned counsel for the petitioners, learned Government Pleader for Roads and Buildings for respondent Nos.1, 4 and 5 and Sri G.Narender Reddy, learned Standing Counsel offers to file vakalat and counter for respondents 2 and 3 stating notice received already but no vakalat so far filed.

It is brought to the notice of this Court that W.P.No.24297 of 2016 is pending, maintained by petitioners herein along with one Methuku Venkata Lakshmi, wife of 2nd petitioner herein, with a prayer to restrain the Panchayat Raj Authorities, who are respondents 1, 4 and 5 herein from interfering with the houses bearing Nos.1-19 and 3-28 and also agricultural land in Sy.Nos.140/ A and 183/ A admeasuring Ac.0.30 gts and Ac.4.00 gts. respectively, situated at Theegalakuntapally Grampanchayat, Koheda Mandal, Karimnagar District. In the said Writ Petition, this Court, on 01.08.2016, passed an interim direction as prayed for, which is in force.

The prayer in the present writ petition is to quash the subsequent notice dated 30.05.2017 issued by respondents 2 and 3-Sarpanch and Grampanchayat herein.

A perusal of the notice dated 30.05.2017 issued to the petitioners shows that it is proposed to widen R&B road to 66 feet, but, as per the request of the villagers and pursuant to the resolution of the Panchayat, it is proposed to widen the road to 40 feet and for the said purpose, the petitioners are directed to be removed their constructions, voluntarily.

In fact, a perusal of the said notice no way discloses that whether the own property of the petitioners is to be vacated and handover voluntarily, if so, under what provision and if not pursuant to the earlier order passed by this Court in W.P.No.24297 of 2016 not to interfere without initiation of the proceedings to acquire the private land of the petitioners for the proposed demolition except under due process of law. However, the 2nd respondent-Sarpanch has issued the impugned notice, thereby, the reply of the petitioners also is not required for the same.

Accordingly, the Writ Petition is disposed of at the stage of admission giving liberty to respondents 2 and 3, if the land of the petitioners is a private land, issue proper notice if at all proposes to acquire and if it is part of the Government land vested in the Panchayat to manage with plan and details of what is the encroachment if any, so as to meet the said notice by proper reply for consideration and passing any necessary orders. If there is any further grievance of the petitioners, they can implead the Sarpanch and Panchayat of the village concerned in W.P.No.24297 of 2016 for any further orders therein without need of filing any fresh writ petition. No costs.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:05.06.2017
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