

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.41649 OF 2016

ORDER:

In the present writ petition, challenge is to the alleged action of the 4th respondent – Gram Panchayat, in threatening to dispossess the petitioners from the houses in survey No.147/3, situated at V.Santapalem Village, K.Kotapadu Mandal, Visakhapatnam District.

2. None appears for the writ petitioner and Sri Ravi Cheemalapati, learned standing counsel, appears for the respondent Gram Panchayat.

3. In the present writ petition, it is the case of the petitioners herein that they are the permanent residents of V.Santapalem Village, K.Kotapadu Mandal, Visakhapatnam District. It is stated in the writ affidavit that the petitioners own individual house sites in survey No.147/3, situated within V.Santapalem Gram Panchayat, K.Kotapadu Mandal, Visakhapatnam District, having succeeded to the same from their ancestors. It is alleged in the writ affidavit that due to political motivation, the 4th respondent came to the houses of the petitioners on 20.11.2016 and threatened the petitioners to vacate and handover the possession to the Gram Panchayat, within a couple of weeks while saying that the site in occupation of the petitioners is a Gramakantam land and

the Gram Panchayat proposes to construct an Anganwadi Centre. It is also the pleading in the writ affidavit that the 4th respondent – Gram Panchayat, is threatening to dispossess from their possession without following due procedure as contemplated under law and no notice whatsoever was served on the petitioners.

4. A counter affidavit, deposed by the Panchayat Secretary of the 4th respondent – Gram Panchayat, is filed stating that the 1st petitioner possesses a tiled house adjacent to the Panchayat land and taking advantage of the Panchayat land, being vacant, he tried to grab the same. The said counter further states that there is a land in survey No.147/3 belonging to the Gram Panchayat and the Gram Panchayat erected foundation stone for Gram Panchayat building. Counter further avers that when the 1st petitioner and his son removed the foundation stone and tried to grab the property by raising a small shed, the Gram Panchayat issued a notice dated 24.02.2016 and the 1st petitioner refused to receive the same and as such, the said notice was sent through registered post and the 1st petitioner refused to receive the said notice. It is further stated that the respondent Gram Panchayat had given a police complaint on 11.03.2016 and for which, Station House Officer also gave a receipt on 13.03.2016. It is further stated that the Sarpanch of the Gram Panchayat also brought the same to the notice of the

District Collector, vide letter dated 20.10.2016 and the Tahsildar, gave a complaint to the police on 30.10.2016. The said counter further states that the 1st petitioner tried to erect a small shed in the said land and immediately, Gram Panchayat issued another notice on 06.11.2016 and the same was sent through Registered Post with Acknowledgment Due, wherein two days time was granted to remove the shed. The said notice was received by the 1st petitioner. It is further stated that the other petitioners have nothing to do with the subject issue and the 1st petitioner is the person alone who tried to grab the property. It is further stated that the respondent Gram Panchayat removed the shed on 04.12.2016.

5. Though the counter states in so many words about the issuance of notice at various intervals, no reply has been filed by the writ petitioners, denying the same. Therefore, the statement by the writ petitioner in the writ affidavit that no notice whatsoever has been served on the petitioners is liable to be rejected.

6. It is also significant to note that counter of the respondent Gram Panchayat also states that adjacent to the Panchayat land, the 1st petitioner is having a tiled house and he has given the same for rent. It is also the averment in the counter affidavit that the tax receipts filed along with the writ petition do not belong to the subject property and they belong

to the petitioners other house, which is situated near R&B Road.

7. In view of the categoric averments in the counter affidavit and having regard to the nature of controversy and taking into consideration the submissions of the learned standing counsel for Gram Panchayat, this Court is of the considered opinion that there are absolutely no merits in the writ petition.

8. For the aforesaid reasons, this writ petition is dismissed. Interim orders, if any, stand vacated.

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

21.02.2017
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A.V.SESHA SAI, J