

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.6132 of 2018

ORDER:

The endorsement dated 17.01.2018 issued by the 3rd respondent, is challenged before this Court.

2) It is the case of the petitioner that noticing the Grampanchayat authorities are laying CC road in front of his house by encroaching his land, made a complaint to the 2nd respondent-District Collector, who in turn had directed the 3rd respondent-District Panchayat Officer, Kakinada and he directed the 4th respondent-Divisional Panchayat Officer herein to cause enquiry and to take necessary steps with respect to the grievance of the petitioner. In spite of the same the District Panchayat Officer had relied on the information furnished by the 5th respondent-Panchayat Secretary, against whom the petitioner had made a complaint. In those circumstances, the petitioner seeks Writ of Mandamus to respondents 3 and 4 to take necessary action on his complaint as directed by the 2nd respondent-District Collector.

3) The Writ Petition is opposed by the learned standing counsel Sri Ravi Cheemalapati, who submits that as a matter of fact, the 3rd respondent had taken into consideration the grievance of the petitioner and based on the factual data furnished by the 5th respondent, he had passed the impugned endorsement.

4) Heard the learned counsel for the petitioner as well as the learned Government Pleader for respondents 1 to 4 and the learned Standing Counsel for respondent No.5 and perused the record.

5) As can be seen from the impugned endorsement, the 3rd respondent had taken into consideration the information furnished by the 5th respondent. The 5th respondent appeared to have submitted

that the petitioner had failed to produce any document in relation to the property in his occupation and specifically failed to establish that the property in which he is residing is ancestral property and there are no documents with any of the residents therein in the locality. It is also submitted by the 5th respondent to the 3rd respondent that as a matter of fact, in comparison with other adjacent owners, it is the petitioner, who had encroached on the road and made construction and there is no substance in the petitioner's complaint.

6) Though learned counsel for the petitioner would assert that if at all the 3rd respondent inspected the locality, the truth would have come out, this Court is not inclined to make any further enquiry into the matter for the reason whether the petitioner has occupied the road or Grampanchayat laid the road in the petitioner's property is a fact which is required to be ascertained. At this stage, in the absence of any material, it would not be proper for this court to ignore the findings recorded by the 3rd respondent. At any rate, there being disputed facts, this Court is not inclined to order further enquiry into the matter. In the interests of justice, it would be appropriate if an opportunity is given to the petitioner to approach the Civil Court to establish his right over the property, in such an event, the Civil Court will grant appropriate relief.

7) In those circumstances, leaving it open to the petitioner to work out his remedies available under law, the Writ Petition is closed. There shall be no order as to costs.

8) Consequently, Miscellaneous Petitions pending, if any, in this Writ Petition, shall stand closed.

CHALLA KODANDA RAM, J.

Date: 23.02.2018.
Ssv