

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.15310 of 2009

ORDER:

Heard Mr.Vijaysen Reddy for petitioners, learned Government Pleader for Panchayat Raj for 2nd respondent and Mr.Vedula Srinivas for respondents 6 to 8.

The petitioners challenge Memo No.397/09-B1(Pts), dated 30.06.2009 of 2nd respondent directing Panchayat Secretary/ Sarpanch, Ward members of Bandlaguda Gram Panchayat not to interfere in the construction made by 6th respondent in Plot No.15 in Sy.No.96/2 of Bandlaguda Jagir Village, as illegal, arbitrary and beyond the power of appellate authority-2nd respondent.

The petitioners on one hand and respondents 6 to 8 on other have converted the present writ petition into a suit for decision on various aspects including legality of layout sanction, building permission etc. The circumstances, on which there is consensus, are referred to for disposing of the writ petition.

Respondents 6 to 8 claim to have obtained permission from 3rd respondent-Gram Panchayat in Sy.No.96/2 of Bandlaguda Jagir Village. The petitioners, who were ward members of Bandlaguda Gram Panchayat on 15.06.2009 filed appeal before the District Panchayat Officer-2nd respondent against building permission dated 13.01.2009. The 2nd respondent called for remarks from the office of 3rd respondent. It is part of pleading

that the 4th respondent in response to the letter addressed by 2nd respondent directed respondents 6 to 8 not to proceed with the building construction. On 29.06.2009, respondents 6 to 8 submitted representation to 2nd respondent. On the representation given by respondents 6 to 8, the 2nd respondent issued impugned Memo, dated 30.06.2009.

On 29.07.2009, this Court directed maintenance of status-quo by respondents 4 to 8.

The 2nd respondent filed counter affidavit. Respondents 6 to 8 filed counter affidavit and also petition to vacate the interim order, dated 29.07.2009.

The appeal filed by petitioners, it appears, is still pending before 2nd respondent, where the petitioners are raising substantive grounds against the layout on which respondents 6 to 8 are relying upon, granting of building permission etc. The 2nd respondent, wherein has called for remarks from respondents 3 and 4.

When the issue is substantially pending before 2nd respondent, this Court is of the view that the consideration of the issues now canvassed by the parties, while considering the challenge to Memo dated 30.06.2009, could be avoided and the parties are relegated to work out their remedies before the appellate authority.

As already noticed, the petitioners and respondents 6 to 8 are arrayed as parties before 2nd respondent. Hence, the following order is passed :-

(a) The petitioners or respondents 6 to 8 are given liberty to re-submit memorandum of appeal or representation respectively, by enclosing a copy of this order, within four weeks from the date of receipt of a copy of this order.

(b) The 2nd respondent considers and disposes of the appeal filed by petitioners and also the representation of respondents 6 to 8 by a common order.

(c) The said exercise shall be positively taken up and completed within eight weeks from the date of filing of representation or memorandum of appeal.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 21-03-2018
Prv

S. V. BHATT, J

