

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.42933 OF 2018

Date:03.12.2018

Between:

Palla Venkata Suryanarayana,
S/o. Veerabhadra Rao, aged about
39 years, R/o.4-8, Kandrakota Village,
Peddapuram Mandal, East Godavari District .. Petitioner

And

State of Andhra Pradesh, rep., by its
Principal Secretary, Panchayat Raj and
Rural Development Department,
Secretariat Buildings, Velagapudi,
Guntur District and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.42933 OF 2018****ORDER:**

Heard learned counsel for petitioner, learned Government Pleader for Panchayat Raj for respondents 1 and 2, learned Government Pleader for Revenue for respondent No.3 and Sri K.K. Durga Prasad, learned Standing Counsel for Gram Panchayat for respondents 4 and 5.

2. Petitioner claims to be the owner of land to an extent of Ac.0.52 cents out of Acs.1.67 cents in Survey No.489 of Kandrakota Village, Peddapuram Mandal, East Godavari District, which has fallen to his share in the family partition vide Partition Deed dated 16.10.2018. He claims that part of the plot was earlier utilized for construction of R.C.C. building and in the vacant site, he now intends to undertake construction. Petitioner claimed that he is undertaking construction in 50 yards in the left over vacant place. Alleging illegal construction and threatening to demolish the said construction, this Writ Petition is filed.

3. On 21.11.2018, the Panchayat Secretary issued a show cause notice to the petitioner calling upon him to show the boundaries of the plot where he is undertaking construction and not to undertake construction until he satisfactorily explains the title to the said property. Petitioner claimed to have submitted explanation on 23.11.2018. However, on the same day, notice was issued directing the petitioner to remove illegal construction made or to appear before the Panchayat Secretary with proper proof

to show title to the property. Challenging the same, this Writ Petition is filed.

4. The material on record would disclose that even though notice was issued initially on 21.11.2018 and explanation was submitted by petitioner on 23.11.2018, holding that no explanation is filed, the present impugned notice is issued, though in terms of the notice, which mandates the petitioner to remove the structures made by him. Therefore, it is not strictly in the form of a notice giving opportunity, but directing the petitioner to remove the structures.

5. Learned Standing Counsel for Gram Panchayat submits that the material does not show as to whether the petitioner was granted building permission. However, he points out by placing reliance on the photographs filed along with the counter affidavit to show that the construction is outside the plot owned by the petitioner and on public place and the land claimed by him does not belong to him and is not in the same survey number. He points out that the electric pole is in the midst of the construction and therefore it is clear that construction is made on a public place.

6. The said contention is rebutted by learned counsel for the petitioner.

7. Whether the property claimed by the petitioner belongs to him or whether it is a public property is a matter which can be gone into only by the revenue authorities.

8. Having regard to the controversy, I deem it necessary to direct the Tahsildar, Peddapuram Mandal, East Godavari District, to thoroughly look into the revenue records and, if necessary by taking the assistance of the surveyor, verify the extent of land owned by the petitioner, the survey number and whether petitioner is encroacher of public land not belonging to him. He shall issue notice to the petitioner to place before him all the relevant documents in support of his claim and on thorough verification of the revenue records and on consideration of the material placed before the Tahsildar, a decision shall be made and communicated to the petitioner as well as the respondent – Gram Panchayat. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. Till a decision is made by the Tahsildar, petitioner shall not undertake any further construction and the respondent – Gram Panchayat shall not take any coercive action against the petitioner. In other words, both parties shall maintain *status quo* obtaining as on today on the ground position.

9. With the above directions and observations, the Writ Petition is disposed of. Pending Miscellaneous Petitions, if any, shall stand closed.

P. NAVEEN RAO, J

Date:03.12.2018

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