

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.43356 OF 2018

O R D E R

The case of the petitioner is that 1st respondent – Government of Andhra Pradesh, represented by its Principal Secretary, Revenue Department, has introduced a scheme to encourage inter-caste marriages and as the marriage of the petitioner on 25.06.2011, was an inter-caste marriage, he filed application for grant of house site patta, and the 5th respondent – Gram Panchayat, represented by its Sarpanch, vide resolution No.7 dated 04.11.2013, allotted the subject land in an extent of 485 sq. yards in Sy.No.53, Borupalem village, and since then, petitioner has been in possession of the subject land by erecting a thatched house and that possession certificate was given by the 5th respondent on 13.08.2015. It is stated that when some third party tried to interfere with the possession of the petitioner, he filed suit in O.S.No.102 of 2018 on the file of Principal Junior Civil Judge, Mangalagiri, for permanent injunction and by judgment and decree dated 04.08.2018, the suit was decreed. Now the grievance of the petitioner is that when he started construction of pucca house in the subject land, respondents 3 and 4 are interfering with his possession, without following the due process of law. Hence, he filed the present writ petition.

Sri G.Seshadri, learned Standing Counsel for 5th respondent – Gram Panchayat, produced written instructions of Panchayat Secretary, Borupalem Gram Panchayath, Thullur Mandal, Guntur District, stating that the subject property is vested with Gram Panchayat and that same is kept by the Gram Panchayat for communal purposes and that petitioner was never in possession of the subject property. The petitioner filed tax receipt in respect of H.No.2-30/3, which is not related to the subject property and the same is relating to his house property i.e., assessment No.348 (old assessment No.367). It is stated that petitioner got inter-caste marriage on 25.06.2011 and the Social Welfare Department issued inter-caste marriage certificate on 11.11.2013. Petitioner

submitted a letter dated 01.11.2013 to the Gram Panchayat stating that his marriage was inter-caste and sought for allotment of house site. The Gram Panchayat though passed resolution, never allotted the place to the petitioner and the executive authority on behalf of the Gram Panchayat, also did not pass any order. It is stated that the Government has not issued any guidelines for allotment of house sites, whose marriages are inter-caste.

Learned Assistant Government Pleader for Revenue produced written instructions of 3rd respondent – Tahsildar dated 30.11.2018, wherein it is stated that the petitioner tried to encroach the communal site in Sy.No.53/1B and 53/1C of Borupalem village under the guise of sanctioning of the site under the Panchayat resolution. In this regard the Mandal Parishad Development Officer, Thullur, submitted a report that the panchayat resolution said to have sanctioned the house site to the petitioner by passing resolution by Gram Panchayat, Borupalem on 04.11.2013, has been found to be false and the same was cancelled by passing resolution on 20.09.2017 by the Gram Panchayat Borupalem. It is stated that the panchayat has no power to sanction house site pattas to any one.

Heard the learned counsel for the petitioner, Sri G.Seshadri, learned Standing Counsel for 5th respondent – Gram Panchayat and the learned Assistant Government Pleader for Revenue.

From the above averments, it could be seen that the case of the petitioner is that the subject land has been allotted to him by the 5th respondent – Gram Panchayat by passing resolution dated 4.11.2013 and that he has been in possession of the same and he was also issued with possession certificate dated 13.08.2015. In the written instructions of the 3rd respondent it is stated that Gram Panchayat has no power to sanction house site pattas to any one and that the resolution dated 4.11.2013, was found to be false and the same was cancelled by passing resolution of the 5th respondent on 20.09.2017. In the

written instructions of the Panchayt Secretary of the 5th respondent, the identity of the property is disputed, and it is stated that the petitioner was never given possession of the subject property. Further, the party against whom the petitioner has obtained a decree of injunction in O.S.No.102 of 2018, is not made as party to this writ petition. Thus, there are disputes questions of fact, which this court cannot delve into under the writ jurisdiction.

For the foregoing reasons, writ petition is dismissed.

Interlocutory applications pending, if any, shall stand closed. No costs.

A.RAJASHEKER REDDY,J

DATE:03—12—2018

AVS

