

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.839 of 2020

ORDER:

The present writ petition is filed under Article 226 of the Constitution of India seeking for issue of writ of mandamus declaring the action of the 4th respondent in issuing the notice dated 06.01.2020 claiming that the petitioners' house bearing No.4-28 under the Shameerpet Gram Panchayat is completely in a dilapidated condition and as a result thereof, wild shrubs have grown therein and are attracting reptiles causing nuisance in the neighbourhood and directing the petitioner to remove the debris of the dilapidated house within two days from the date of receipt of the said notice as being illegal, arbitrary and contrary to the provisions of Telangana Panchayat Raj Act, 2018 (for short 'the Act') and also in violation of Article 300-A of the Constitution of India.

Heard Sri T.S. Praveen Kumar, learned counsel for the petitioner, learned Government Pleader for Panchayat Raj for respondent No.1 and Sri G. Narender Reddy and learned Standing Counsel for Gram Panchayat for respondent Nos.2 and 4.

From a perusal of the impugned notice, dated 06.01.2020, it is claimed that the petitioner's house is stated to be in a dilapidated house and the petitioner was directed to remove the debris thereof within the period mentioned therein.

This Court, in W.P. No.22282 of 2019, while considering the power conferred on the Gram Panchayat to issue proceeding/notice to bring down any structure had held that no

power is conferred on the Gram Panchayat to remove any structure. Further, this Court also held that the provisions of Section 88 of the Act only indicate that the power conferred on the Gram Panchayat is to direct the owner of the house to maintain sanitation and conservancy whereby the authority could issue notice asking the petitioner to clean up the area abutting the house, but not either to bring down the house or claim the house to be in a dilapidated house and to remove the debris thereof.

Learned Counsel for the petitioner fairly submits and undertakes that the petitioner would take periodical upkeep of the abutting open area of his property and to maintain the sanitation and conservancy to ensure that the house and the abutting area is in a habitable condition.

Having regard to the above submission, since this Court has already held that under Section 88 of the Act, does not confer any power on the authority to remove the old house, the impugned notice as issued is clearly without jurisdiction and is liable to be set aside.

Subject to the above undertaking of the petitioner, the writ petition is allowed.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed. No order as to costs.

JUSTICE T.VINOD KUMAR

Date: 09.01.2020.

MRKR