

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.1783 of 2020

ORDER:

The present writ petition is filed to declare the notices in Letter.Nos.GP/27 & GP/29, dated 24.12.2019, issued by the 4th respondent as illegal and arbitrary.

2. Heard Sri N.Bhujanga Rao, learned counsel for the petitioners, learned Government Pleader for Panchayat Raj for respondents 1 to 3, and Sri G.Narender Reddy, learned Standing Counsel for the 4th respondent.

3. It is the case of the petitioners that they are the absolute owners and possessors of land admeasuring 170 square yards forming part of Survey No.2 of Baakaram Jagir Village, Moinabad Mandal, Ranga Reddy District, wherein the petitioners claimed to have constructed house after obtaining permissions from the Gram Panchayat in the year 1997 and the Gram Panchayat has also allotted house bearing Nos.1-29/5 and 1-29/6 respectively.

4. The grievance of the petitioners is that the 4th respondent has issued the impugned notices in Letter.Nos.GP/27 & GP/29, dated 24.12.2019, wherein it is stated that the petitioners were called upon by notice, dated 20.12.2019, to submit necessary documents of permission pertaining to construction of houses, at the office of the Gram Panchayat, and the petitioners instead of submitting the documents of permission related to

construction of houses, have submitted house tax receipts, permission letters given by Sarpanch, and electricity bills which cannot be considered as permission documents for construction and the petitioners were thus, directed to vacate the houses by removing the belongings from the said houses within a period of seven days from the date of receipt of the said notices, failing which appropriate action would be initiated against the petitioners as per Panchayat Raj Act, 2018. Aggrieved by the same, the present writ petition is filed.

5. Sri G.Narender Reddy, learned Standing Counsel for the 4th respondent, submits that though the petitioners have been living in the above said houses, the permission which was claimed to have been obtained from the Gram Panchayat in the year 1997 would not be a valid permission, as the same has been granted by the Sarpanch, who is not the competent authority. However, he does not dispute the fact that the petitioners' names were shown in the House Tax Register maintained by the Gram Panchayat. He further submits that the 4th respondent has issued the impugned notices, dated 24.12.2019, on the basis of the complaint made by one Baddula Jangaiah, who is one of the co-parceners and that some *inter se* civil disputes are pending between the petitioners and the said Baddula Jangaiah with regard to the partition of the joint family properties. Since the petitioners have filed O.S.No.49 of 2015, on the file of Additional District Judge, Ranga Reddy District,

Vikarabad, for partition of their properties against one Baddula Jangaiah, the said Baddula Jangaiah bore grudge against the petitioners and his neighbour and made a false complaint to the 4th respondent against the petitioners alleging that they have made unauthorized construction in their land without obtaining any permission.

6. In view of the submissions made and on perusing the material placed on record, it is evident that the petitioners are in possession and enjoyment of the land admeasuring 170 square yards forming part of Survey No.2 of Baakaram Jagir Village, Moinabad Mandal, Ranga Reddy District, including their dwelling houses built thereon, since long. The above fact is also evident from the Property Tax Register maintained by the Gram Panchayat and the Gram Panchayat having assigned house bearing Nos.1-29/5 and 1-29/6 respectively to the said dwelling houses, the petitioners cannot now be called upon to produce the documents relating to the said property. Even otherwise, by virtue of the fact that petitioners being in possession of the subject property since long without any claim or hindrance from anybody other than the co-parceners, the petitioners can be construed to have mastered their title to the subject property.

7. Having regard to the above, the impugned notices in Letter.Nos.GP/27 & GP/29, dated 24.12.2019, issued by the 4th respondent cannot be sustained and the same are liable to be set aside.

8. Accordingly, the Writ Petition is allowed and consequently the impugned notices in Letter.Nos.GP/27 & GP/29, dated 24.12.2019, are set aside. However, it is made clear that in the event the petitioners intend to make any further constructions or additions in the subject property, they shall first establish their title to the same.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE T.VINOD KUMAR

Date: 29th January, 2020

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