

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.1798 of 2020

ORDER:

The present writ petition is filed to declare the notice in Letter.No.GP/28, dated 24.12.2019, issued by the 4th respondent as illegal and arbitrary.

2. Heard Sri N.Bhujanga Rao, learned counsel for the petitioner, 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 petitioner that he is the absolute owner and possessor of land admeasuring 108 square yards forming part of Survey No.2 of Baakaram Jagir Village, Moinabad Mandal, Ranga Reddy District, wherein the petitioner claimed to have constructed house after obtaining permission from the Gram Panchayat in the year 1996 and the Gram Panchayat has also allotted house bearing No.1-29/8.

4. The grievance of the petitioner is that the 4th respondent has issued the impugned notice in Letter.No.GP/28, dated 24.12.2019, wherein it is stated that the petitioner was called upon by notice, dated 20.12.2019, to submit necessary documents of permission pertaining to construction of house, at the office of the Gram Panchayat, and the petitioner instead of submitting the documents of permission related to construction of house, has submitted house tax receipt, permission letter

given by Sarpanch and electricity bills which cannot be considered as permission document for construction and the petitioner was thus, directed to vacate the house by removing the belongings from the said house within a period of seven days from the date of receipt of the said notice, failing which appropriate action would be initiated against the petitioner 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 petitioner has been living in the above said house, the permission which was claimed to have been obtained from the Gram Panchayat in the year 1996 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 petitioner's name was shown in the House Tax Register maintained by the Gram Panchayat. He further submits that the 4th respondent has issued the impugned notice, dated 24.12.2019, on the basis of the complaint made by one Baddula Jangaiah, who is one of the co-parceners of the petitioner's neighbour i.e., Mr.Baddula Komuraiah, and that some *inter se* civil disputes are pending between Mr.Baddula Komuraiah and the said Baddula Jangaiah with regard to the partition of the joint family properties. Since, Mr.Baddula Komuriah and other 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 the said Baddula Jangaiah, the said Baddula Jangaiah bore grudge against the petitioner and his neighbour and made a false complaint to the 4th respondent against the petitioner alleging that he has made unauthorized construction in his 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 petitioner is in possession and enjoyment of the land admeasuring 108 square yards forming part of Survey No.2 of Baakaram Jagir Village, Moinabad Mandal, Ranga Reddy District, including his dwelling house 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 No.1-29/8 to the said dwelling house, the petitioner cannot now be called upon to produce the documents relating to the said property. Even otherwise, by virtue of the fact that petitioner being in possession of the subject property since long without any claim or hindrance from anybody other than the coparcener of the neighbour of the petitioner i.e., Mr.Baddula Jangaiah, the petitioner can be construed to have mastered his title to the subject property.

7. Having regard to the above, the impugned notice in Letter.No.GP/28, dated 24.12.2019, issued by the 4th

respondent cannot be sustained and the same is liable to be set aside.

8. Accordingly, the Writ Petition is allowed and consequently the impugned notice in Letter.No.GP/28, dated 24.12.2019, is set aside. However, it is made clear that in the event the petitioner intends to make any further constructions or additions in the subject property, he shall first establish his 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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