

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
THE HON'BLE SRI JUSTICE NINALA JAYASURYA
WRIT PETITION No.13785 of 2023

Between:-

Y. Nageswara Rao			Petitioner
	And		
The State of Andhra Pradesh, Panchayat Raj and Rural Department, Rep. by its Principal Secretary, Secretariat, Velagapudi, Guntur District., & 5 others			Respondents
Counsel for the Petitioner	:		Mr. P.L Narasimha Rao
Counsel for the R-1 to R-3	:		G.P for Panchayat Raj
Counsel for the R-4 & R-5	:		G.P for Revenue
Counsel for the R-6	:		Mr. N. Srihari, S.C for Gram Panchayat

ORDER:

Heard learned counsel for the petitioner. Also heard learned Assistant Government Pleader for Revenue representing the 4th respondent and learned Assistant Government Pleader for Panchayat Raj representing respondents 1 to 3. The 6th respondent is represented by the learned Standing Counsel.

2. The Writ Petition is filed challenging the notice dated 31.05.2022 issued by the 6th respondent directing the petitioner to remove the encroachments in Sy.No.840 of Majeru Village,

Challapalli Mandal, Krishna District, within a period of seven days from the date of receipt of the said notice as illegal, arbitrary, etc.

3. The learned counsel for the petitioner with reference to averments made in the Writ Petition submits that the notice dated 31.05.2022 is *ex-facie* illegal., as the petitioner is directed to vacate the tin shed mentioned in the above said notice without giving opportunity to the petitioner. He submits that the notice is vague, in as much as no survey number is also mentioned. He submits that as no opportunity was afforded to the petitioner and impugned action is violative of principles of natural justice, the petitioner is constrained to file this Writ Petition seeking appropriate reliefs.

4. The learned Standing Counsel for the 6th respondent sought to impress upon this Court that the Gram Panchayat is taking steps in view of the illegal encroachments and in terms of the orders passed by this Court in Writ Petition No.6618 of 2023. However, it would appear that the 6th respondent had resorted to take action without giving any opportunity to the petitioner by issuing a Show-Cause Notice before issuing the impugned proceeding dated 31.05.2023, which is in fact an order though styled as notice. Such an act on the part of the 6th respondent, is not tenable in law.

5. Be that as it may. This Court instead of setting aside the impugned Notice on the ground of violation of principles of natural justice, deems it appropriate to dispose of the Writ Petition with the following directions:

- a) The Notice dated 31.05.2023 issued by the 6th respondent shall be treated as Show-Cause Notice.
- b) The petitioner shall file explanation/objections to the above said Notice dated 31.05.2023 within two weeks.
- c) The 6th respondent on receipt of the explanation/objections from the petitioner, shall pass appropriate orders, expeditiously in accordance with law, within a period of four weeks.
- d) Till passing of appropriate orders as per the above directions, no coercive action in respect of the subject matter property shall be resorted to.

6. The Writ Petition is accordingly disposed of. There shall be no order as to costs. As a sequel, all pending applications shall stand closed.

JUSTICE NINALA JAYASURYA

Date: 14.06.2023
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