

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.25944 of 2016

ORDER:

This writ petition filed under Article 226 of the Constitution of India, challenges the proposed action of the Respondents for demolition of thatched house bearing Door No.3-67 of Machavaram village of Rayavaram mandal, East Godavari district.

2. Heard Sri T.V.S.Prabhakar Rao, learned counsel for the petitioner, the learned Government Pleader for Respondent No.1 and Sri Ravi Cheemalapati, learned Standing Counsel for Respondent No.2-Gram Panchayat, apart from perusing the material available on record.

3. According to the petitioner, he has been in possession and enjoyment of thatched house bearing Door No.3-67 of Machavaram village of Rayavaram mandal, East Godavari district situated in an extent of Ac.0.02 cents and that the said site is an ancestral property. It is further averred that the 2nd respondent-Gram Panchayat assessed the said property to tax, by allotting door number. The 2nd respondent Gram Panchayat issued a notice on 25.7.2016, asking the petitioner to remove the said thatched shed within a period of (6) days, while saying that the petitioner herein has encroached the panchayat site and raised the thatched hut. According to the petitioner, he submitted objections to the said notice and without considering the said objections, the Respondents herein are proceeding with the process of demolition.

4. This Court on 3.8.2016 granted interim order, directing not to demolish or meddle with the subject property.

5. A counter affidavit, deposed by the 2nd respondent-Panchayat Secretary is filed, stating that the Gram Panchayat never allotted door number to the

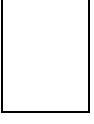
petitioner. It is further stated that the Gram Panchayat wants to develop the land from gravel to CC road that too by extending the existing gravel road pursuant to a resolution. It is further stated that the petitioner hut is on the road margin and the same is causing obstruction for extending the road. The counter affidavit further denies the averment with regard to submission of explanation of the petitioner in response to the notice dated 25.7.2016.

6. The possession of the petitioner as on today is not in dispute. As such, this Court, is of the considered opinion that ends of justice would be served if the petitioner is permitted to submit an explanation to the show cause notice dated 25.7.2016 for consideration of respondents herein and to take further action in the matter.

7. For the aforesaid reasons, the writ petition is disposed of, keeping it open to the petitioner to submit explanation/objections to the notice dated 25.7.2016 issued by the 2nd respondent-Secretary within a period of four weeks from the date of receipt of this order. If any such explanation/ objections are filed, the same be considered and appropriate action be taken on the same, in accordance with law. Till such time, the interim order granted by this Court on 3.8.2016 shall continue to operate. If the petitioner fails to submit the explanation/objections as indicated supra, this order will not enure to the benefit of the petitioner and it is open for the Respondents to proceed against the petitioner, as per law. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 28.2.2017
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28.2.2017

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