

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

WRIT PETITION Nos.9903 & 1845 OF 2021

COMMON ORDER:

Heard Sri V.Subrahmanyam, learned counsel for the petitioners in W.P.No.9903 of 2021; Sri V.S.R.Anjaneyulu, learned Senior Counsel appearing for the petitioner in W.P.No.1845 of 2021; Sri P.Subhash, learned Government Pleader for Revenue, and Sri M.Manohar Reddy, learned Standing Counsel for Vuyyuru Nagara Panchayat, apart from perusing the entire material available on record.

2. Since these two Writ Petitions are inter-related and pertain to one subject matter, with the consent of the learned counsel, this Court deems it appropriate to dispose of these Writ Petitions, at the stage of admission, by way of this common order.

3. Petitioner in W.P.No.1845 of 2021 is the fifth respondent in W.P.No.9903 of 2021. The issue in these Writ Petitions pertains to the land admeasuring Ac.12.80 cents situated in R.S.No.1045 of Vuyyuru Nagara Panchayat, Krishna District and the removal of the alleged illegal constructions in Badasaheb Cheruvu Katta.

4. Fifth respondent in W.P.No.9903 of 2021 filed W.P.No.1845 of 2021 for a writ of Mandamus to direct the official respondents therein to remove the alleged illegal constructions in the subject land.

5. This Court, on 22.02.2021, passed an interim order directing the respondent-Nagara Panchayat to take appropriate action on the communication, dated 30.08.2019, sent by the Tahsildar, Vuyyuru, Krishna District with regard to the alleged encroachments within a period of eight weeks and to file a report before this Court. Obviously, in pursuance of the said order of this Court, respondent-Vuyyuru Nagara Panchayat issued a Notice, dated 09.04.2021, under Sections 37, 192 and 194 of the A.P.Municipalities Act, 1965, calling upon the petitioners in W.P.No.9903 of 2021 to show cause as to why the alleged encroachments should not be removed.

6. According to the petitioners in W.P.No.9903 of 2021, they submitted a detailed explanation on 14.04.2021, duly bringing to the notice of the Nagara Panchayat authorities about their longstanding possession in the subject property and their right to be in possession of the property. Alleging, *inter alia*, that the Nagara Panchayat authorities are interfering with the possession and enjoyment of the petitioners and disputing the authority of the Nagar Panchayat authorities, under the provisions indicated in the impugned notice, W.P.No.9903 of 2021 came to be filed.

7. It is contended by Sri V.Subrahmanyam, learned counsel for the petitioners in W.P.No.9903 of 2021, that the notice impugned in W.P.No.9903 of 2021 is totally one without jurisdiction and not traceable to the provisions of law indicated in the notice and that

the Nagara Panchayat authorities have absolutely no jurisdiction to resort to the impugned action.

8. On the other hand, it is submitted by Sri M.Manohar Reddy, learned Standing Counsel for the respondent-Nagara Panchayat that, strictly in compliance of the order of this Court, dated 22.02.2021, and the communication received from the Tahsildar, Vuyyuru, dated 30.08.2019, the Commissioner, Nagara Panchayat issued the impugned notice for removal of the encroachments made by the petitioners in W.P.No.9903 of 2021, as such, the said notice cannot be faulted. It is also the submission of the learned Standing Counsel that W.P.No.9903 of 2021 is a premature one and, since the explanation is still pending consideration before the Nagara Panchayat, the process already initiated cannot be scuttled.

9. Sri V.S.R.Anjaneyulu, learned Senior Counsel for the fifth respondent in W.P.No.9903 of 2021 and the petitioner in W.P.No.1845 of 2021, while supporting the stand taken by the learned Standing Counsel, contends that, since the petitioners in W.P.No.9903 of 2021 have encroached upon the public property, the action initiated by the Nagara Panchayat authorities is strictly in accordance with law. It is also the submission of the learned Senior Counsel that, without waiting for answer on the explanation, dated 14.04.2021, said to have been submitted by the petitioners in W.P.No.9903 of 2021, the said Writ Petition came to be filed.

10. The information available before this Court, in vivid and candid terms, discloses that, pursuant to the orders of this Court, dated 22.02.2021, in W.P.No.1845 of 2021, the Nagara Panchayat authorities issued the impugned notice, dated 09.04.2021, asking the petitioners in W.P.No.9903 of 2021 to show cause as to why the alleged encroachment in the subject land should not be removed. It is also not in controversy that, in response to the said notice, petitioners in W.P.No.9903 of 2021 have filed their explanation on 14.04.2021. It is also not in dispute that the Nagara Panchayat authorities are in receipt of the said explanation, dated 14.04.2021.

11. According to the learned counsel for the petitioners in W.P.No.9903 of 2021, petitioners in the said case have brought to the notice of the Nagara Panchayat authorities about their right over the property including the longstanding possession by way of explanation. It is also the submission of the learned counsel for the petitioners in W.P.No.9903 of 2021 that, under the provisions of law indicated in the impugned notice, dated 09.04.2021, the Nagar Panchayat authorities have no jurisdiction to resort to the impugned action. Since the explanation, dated 14.04.2021, is admittedly pending consideration before the Nagara Panchayat authorities, this Court deems it appropriate to dispose of these Writ Petitions, directing the Nagara Panchayat authorities to verify the contents of the explanation, dated 14.04.2021, including the contention of the learned counsel for the petitioners as regards the power of the Nagara Panchayat, under the provisions indicated in

the impugned notice, and take appropriate action/pass appropriate orders, strictly in accordance with law, as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order. It is made clear that the fifth respondent in W.P.No.9903 of 2021, who is the petitioner in W.P.No.1845 of 2021, is also entitled to submit his objections before the Nagara Panchayat authorities within a period of one week from the date of receipt of a copy of this order. It is also made clear that, till the said exercise is completed and an order is passed by the Commissioner, Nagar Panchayat, Vuyyuru, *status quo*, as on today, with regard to the subject land and constructions, if any, shall be maintained. It is also made clear that no further construction shall be made in the subject land. It is further made clear that, while passing the orders, the Nagara Panchayat authorities shall take into consideration the material placed on record by the parties to the Writ Petitions.

12. Accordingly, Writ Petitions are disposed of. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, in these Writ Petitions shall stand closed.

16th November, 2021.
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A.V.SESHA SAI, J