

(2012) 04 AP CK 0072

In the Andhra Pradesh High Court

Case No : Writ Petition No. 34070 of 2011

Kallumadi Adenna., M.C.Yerikala Reddy and Degala Krishna
Murthy.

APPELLANT

Vs

The District Panchayat Officer,. Anantapur District Anantapur
and Others

RESPONDENT

Date of Decision : 10-04-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 4 ALD 257 : (2012) 4 ALT 813

Hon'ble Judges : G. Bhavani Prasad, J

Bench : Single Bench

Advocate : N. Aswartha Narayana, for the Appellant; Zakir Ali Danish AGP for GP for Panchayat Raj and Rural Dev Counsel for the Respondent No. 1 and 2 K. Suresh Reddy Counsel for the Respondent No. 5 and SMT. CH. Vedavani Counsel for the Respondent No. 3 None Counsel for the Respondent No. 4, for the Respondent

Final Decision : Dismissed

Judgement

G.Bhavani Prasad

1. Heard Sri N. Aswarthanarayana, learned counsel for the petitioners, Sri Zakir Ali Danish, learned Assistant Government Pleader for Panchayat Raj and Rural Development for respondents 1 and 2, Smt. Ch. Vedavani, learned standing counsel for Panchayats for the 3rd respondent and Sri K.Suresh Reddy, learned counsel for the 5th respondent. The 4th respondent did not enter appearance in spite of service of notice. The petitioners claimed that in 2005-2006 foundation was laid in Survey No. 651 of Gummepally Gram Panchayat for construction of Gram Panchayat office building, but construction was stalled due to lack of funds. In 2009 again funds of Rs. 10,00,000/- were released, but the construction could not proceed till the expiry of the term of the Gram Panchayat in August, 2011. Now, the Special Officer is trying to construct the Panchayat Office building in the land of the 5th respondent at a distance of 1 KM from the Gram Panchayat

against which the petitioners made a representation on 30-11-2011 to the District Panchayat Officer. The construction proposed in Survey No. 647/3 is not convenient to the villagers and the construction is requested to be made only in Survey No. 651. Even the records, of the Panchayat will not be safe in any building in Survey No. 647/3 in contrast with Survey No. 651, which is in the midst of the village. Hence, the petitioners sought for the proposed construction to be declared illegal or for a direction to construct the Panchayat office in Survey No. 651. The 1st respondent in his counter affidavit stated that in Survey No. 651 construction could not be proceeded with due to the site measuring below 3 cents. The Mandal Engineering Officer, Singanamala also reported that there is an existing basement over which the office cannot be constructed and stated that the site is not suitable with reference to the new plan communicated by the State Government. While so, the 5th respondent herein donated 5 cents of land in Survey No. 647/3 under a registered gift deed and on the representation of the 1st petitioner and others, an enquiry was conducted by the Divisional Panchayat Officer, Extension Officer and Special Officer of the Gram Panchayat, who reported that the site registered for the Gram Panchayat building is at a distance of 45 meters from the last house of the village and it is suitable for construction of the building. The counter affidavit further stated that as the building could not be constructed in Survey No. 651, which is not suitable, the present site in Survey No. 647/3 is suitable for construction of a good Panchayat building. The allegation that it is far away from the village is denied.

2. The affidavit of the Special Officer of the Gram Panchayat also is to a similar effect.

3. The Annexure to G.O.Ms. No. 227 Panchayat Raj and Rural Development & Relief (Pts.II) Department, dated 13-04-1995 prescribes the guidelines for construction of Gram Panchayat offices and it is true that the guidelines prescribed the office to be located at a place accessible to all the members of the Gram Panchayat and to all castes and communities. These guidelines are not inflexible is evident from the very note to the annexure, which gives a discretion to the District Collector to relax any of the conditions at his discretion in deserving cases.

4. With the above guidelines in view, it is seen from the material on record that though an attempt was made to construct a Gram Panchayat building in Survey No. 651 right from 2005-2006, it could not materialize. It is also not in dispute that the 5th respondent donated a site of 5 cents in Survey No. 647/3 for construction of the Gram Panchayat office building. The representations, copies of which are enclosed in the material papers rather indicate the grievance of the representationists to be about the construction of the office building in the garden of a person belonging to a named political party and it may not be open to acceptance at face value. Though the petitioners conveniently claim to be actuated only in public interest in moving this writ petition, the Special Officer of the Gram Panchayat and the District Panchayat Officer, who are interested in the

cause only in the performance of their official duties and not in any personal capacity, had stated about the reasons for which the construction of the office building in Survey No. 651 was not possible and the reasons about the extent of the site or its unsuitability for the new plan approved by the Government cannot be considered irrelevant. On the representations of the petitioners and others, the officials did not fail in taking the necessary action and the District Panchayat Officer, the Extension Officer and the Special Officer submitted a report after due enquiry specifically stating that the site gifted by the 5th respondent is suitable for construction of the Gram Panchayat office building and that the site in Survey No. 651 is not so suitable for the reasons stated and also according to the report of the Mandal Engineering Officer. The claim that the proposed site is away from the village is denied and there is no reason to prefer the interested claims of the writ petitioners as against the independent version of both the officers placed before this Court. Apart from the allegations and the counter allegations, there is no further material to presume any violation of the guidelines incorporated in G.O.Ms. No. 227, Panchayat Raj and Rural Development & Relief (Pts.II) Department, dated 13-04-1995 referred to above.

5. Even otherwise, as already stated, the guidelines in G.O.Ms. No. 227, Panchayat Raj and Rural Development & Relief (Pts.II) Department, dated 13-04-1995 are not absolute and inflexible. Given the circumstances that Survey No. 651 is found to be unsuitable and Survey No. 647/3 is found to be suitable, the intervention by this court in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India does not appear to be called for. Accordingly, the writ petition is dismissed. No costs.