

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.32249 of 2011

Date:01.07.2015

Between:

G.Devaraj, S/o Vannappa
and two others.

..... Petitioners

And:

Y.Ramesh Babu,
S/o Chinna Peddaiah Setty and three others.

.....Respondents

Counsel for the Petitioners: Sri V.V.Satish

For Sri O.Manohar Reddy

Counsel for Respondent Nos.1 to 3: Sri Shaik Meera Vali

For Sri Md.Saleem

Counsel for Respondent No.4: Sri B.Venkateswara Rao

For Sri M.R.K.Chakravarthy

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare the inaction of respondent No.1 in responding to the petitioners' representations, dated 26.09.2011 and 23.11.2011, in relation to the alleged encroachment made by respondent No.4 on the road at Plot No.35, bearing Door No.1/541-75, NGOs' Colony, Adoni, Kurnool District, as illegal and arbitrary. The petitioners sought for a consequential direction to respondent No.1 to remove the

said encroachment.

I have heard Sri V.V.Satish, the learned counsel representing Sri O.Manohar Reddy, the learned counsel for the petitioners, Sri Shaik Meera Valli, the learned counsel representing Sri Md.Saleem, learned counsel for respondent Nos.1 to 3 and Sri B.Venkateswara Rao, the learned counsel representing Sri M.R.K.Chakravarthy, the learned counsel for respondent No.4.

The petitioners averred that they are the residents of NGOs' Colony, Adoni, Kurnool District and owners of Plot Nos.19, 17 and 20 respectively situated in the said colony. They have pleaded that the NGOs' Co-Operative House Building Society, Adoni has obtained approved layout; that respondent No.4 owns an extent of Ac.0.5 ½ cents, but he has been constructing a building encroaching 30 feet road; that they have made a representation on 26.09.2011 to respondent No.1 stating that respondent No.4 is constructing a house over the vacant plot exceeding the dimensions of his plot by encroaching on the 30 feet road; and that thereupon, respondent No.1 has addressed a letter to the Tahsildar, Adoni with a copy marked to respondent No.4 requesting him to furnish the detailed road sketch at Door No.1/541-75 at an early date. The grievance of the petitioners is that despite their representations, no further action has been taken against respondent No.4.

In spite of entering appearances, neither respondent No.1 nor respondent No.4 has filed any counter-affidavit.

The learned counsel for respondent No.4 has submitted that his client has filed a civil suit, which is pending before the civil Court. He is, however, unable to state as to whether any order protecting his client's possession has been passed by the civil Court.

In my opinion, the purported inaction of respondent No.1 in removing the alleged encroachment by

respondent No.4 cannot be appreciated. It is the lawful duty of respondent No.1 to ensure that the encroachments, if any, over the public roads are removed by making strict vigil. The facts of the present case make it clear that far from being vigilant in preventing the encroachments, respondent No.1 is showing supine indifference in removing the alleged encroachment by respondent No.4. Absence of counter affidavit by respondent No.4 denying the allegation of encroachment fortifies the plea of the petitioners that he has made encroachment.

In the light of the above facts and circumstances of the case, respondent No.1 is directed to initiate appropriate steps to measure the road in NGOs' Colony, which is stated to be encroached by respondent No.4. If on such measurement, respondent No.1 finds that respondent No.4 has encroached the public road, a notice shall be issued to respondent No.4 under the provisions of the A.P. Municipalities Act, 1965 and after receiving explanation, if any, from him, respondent No.1 shall remove the encroachment. Respondent No.1 shall complete this exercise within a period of one month from the date of receipt of a copy of this order.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.40066 of 2011 filed by the petitioner for interim relief is disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*01st July, 2015
DR*