

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 17102 of 2012

ORDER:

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As there was no representation on behalf of the petitioner on 09.09.2015 the matter was directed to be listed to today under the caption "for dismissal". In spite of matter being posted under the caption "for dismissal" there is no representation on behalf of the petitioner either in the morning or in afternoon session.

Heard learned Government Pleader for Revenue.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in trying to convert the path way into eight feet cart way road in the land of the petitioner situated in Sy.No.306/A of Nagulavancha Village, Chintakani Mandal, Khammam District, as illegal, arbitrary and violative of principles of natural justice.

The averments in the affidavit filed in support of the writ petition are to the effect that the petitioner holding Ac.5.00 of patta land in Sy.No.306/A situated in Nagulavancha Village, Chintakani Mandal, Khammam District. Out of the said land, she sold away land admeasuring Ac.2.00 and cultivating in the remaining land. It is stated that there is a path way on the bund of Ac.1.00 wet land to go beyond her land and there is also a ten feet cart way to ply bullock carts etc. It is alleged that some of the farmers, who are having land beyond the land of the petitioner approached the first respondent to convert the path way into eight feet road for their convenience. Pursuant thereto the first respondent came to the land and demarcated the path way of eight feet road and accordingly

encroached the patta land of the petitioner without any notice and without issuing any proceedings under Land Acquisition Act. Challenging the action of the first respondent in demarcating the path way into eight feet road the present writ petition is filed.

A reading of the counter affidavit filed by the first respondent would show that the village survey map show existence of a path way across Sy.No.306. Width of the said path way was shown as 4 Annas i.e., 13 links. In para No.3 of the counter affidavit it is stated that the area covered by path way has already been deducted from the patta land in Sy.No.306 and recorded as Put Kharab. Therefore, the allegation that the first respondent is trying to encroach upon the land of the petitioner for laying a path way of eight feet is absolutely false.

The implead petitioners filed their counter stating that there is a cart track with a width of 8.3 feet from their village through Ramasamudram Village tank over flow canal towards Polampally village. According to them, all the villagers used to proceed through the said cart track to reach their respective fields for conducting agricultural operations. It is alleged that the present writ petition is filed only with a view to occupy the path way which is passing through the bund of the land of the petitioner. The counter affidavit further discloses that the second respondent had conducted survey as per the village map, identified the cart track in existence and fixed the boundaries under a cover of panchanama on 04.05.2012 and 05.06.2012. In view of the above, he submits that there are no merits in the writ petition and the same is liable to be dismissed.

As stated earlier though the matter is posted under the caption “for dismissal” there is no representation on behalf of the petitioner. Counter affidavits filed by the first respondent and also by the

implead petitioners would indicate the existence of path way having a width of 8.3 feet since times immemorial and the same is also reflected in the village map as well. Apart from that, the affidavit filed in support of the writ petition also indicates the existence of separate cart track. In view of the above, this Court is of the view that the request of the petitioner seeking issuance of writ of mandamus directing the respondent not to convert the path way into a cart track cannot be accepted.

For the aforesaid reasons, the writ petition is dismissed. No order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

14.09.2015
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