

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**WRIT PETITION No.42791 of 2015**

**ORDER:**

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This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief/s:-

**“....to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus by declaring the action of the respondent No.2 in interfering with the peaceful possession and enjoyment over the property admeasuring Ac.1.04 gts., in Sy.No.92/2 situated at Kisan Nagar, Karimnagar, Karimnagar District as illegal, arbitrary, unjust, high handed, without jurisdiction and contrary to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (also Land Acquisition Act, 2013) and violative of Article 14 and 300-A of the Constitution of India and consequently direct the respondent NO.2 Corporation to not to interfere with the peaceful possession and enjoyment of the above mentioned property of the petitioner and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstance of the case.”**

(Reproduced Verbatim)

Sri V. Satyam Reddy takes notice for the 2<sup>nd</sup> respondent- Karimnagar Municipal Corporation. I have heard the submissions of the learned counsel for the writ petitioner and the learned standing counsel for the 2<sup>nd</sup> respondent. I have perused the material record.

The case, in brief, of the writ petitioner is that a pathway of 9 feet width on the Southern side of his property is his exclusive private property and that the purchasers of the property on the Northern side of the said pathway have been permitted to use the said path way for their ingress and egress; and that the said pathway/property is not a public pathway and it is his exclusive property subject to the limited right of the owners of the property on its North to use it for their ingress and egress and that the respondents are high handedly initiating steps for expanding that 9 feet pathway, which is the private property of the petitioner, into a 30 feet road and that the said proposed action of the

respondents is illegal and arbitrary and that, therefore, the writ petitioner is constrained to file the writ petition.

The learned counsel for the writ petitioner while making submissions in line with the contents of the affidavit filed in support of the writ petition had asserted, in particular, the submissions, which are stated supra.

The learned standing counsel for the 2<sup>nd</sup> respondent would submit that when the writ petitioner had made an attempt to encroach upon a road, an inspection was made, and that at present there is no proposal to widen any road and, therefore, the writ petition is liable to be dismissed.

The learned counsel for the writ petitioner, in reply, would submit that the fence that was erected at the fringe of the property of the writ petitioner was removed high handedly and that in case the writ petitioner intends to construct a compound wall for his property, the writ petitioner would take necessary permission and then would proceed to make the construction of the compound wall. He, therefore, requests to dispose of the writ petition after recording the submission of the learned counsel for the parties.

The learned standing counsel for the 2<sup>nd</sup> respondent would submit that the 2<sup>nd</sup> respondent has no objection for the petitioner seeking the directions as now stated by the learned counsel for the writ petitioner.

Recording the submissions of the learned counsel for the parties, the writ petition is disposed of directing the 2<sup>nd</sup> respondent to proceed with the widening of the road as and when necessary, however, by following the procedure in strict accordance with the law and after examining the right and claim of the petitioner as contemplated under law. It is made clear that the writ petitioner is at

liberty to obtain necessary permission/approval for the construction of the proposed compound wall for his property, if he so desires and if so advised. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand dismissed.

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**M.Seetharama Murti, J**

31<sup>st</sup> December, 2015  
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