

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA
REDDY**

WRIT PETITION No.41258 of 2015

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21.12.2015

Between:

Smt.D.Swarna

.. Petitioner

and

The State of Andhra Pradesh,
represented by its Principal Secretary,
Municipal Administration and Urban Development Department,
Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.A.Purushotam Reddy for Mr.V.Eswaraiah
Chowdary

Counsel for respondent No.1: Government Pleader
for Municipal Administration and Urban Development (AP)

Counsel for respondent Nos.3 and 4: Assistant Government Pleader
for Revenue (AP)

Counsel for respondent No.2: --

Counsel for respondent No.5: --

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to declare the action of respondent No.2 in laying WBM road over the petitioner's land admeasuring 1456.66 sq.yds., out of 9196 sq.yds. or Acs.1.90 cents in survey No.3/2C/2E situated at Narayanapuram area, behind Padmavathi Kalyanamandapam, Tirupati Village, as illegal and arbitrary.

When this case came up before this Court on 18.12.2015, Mr.S.D.Goud, learned standing counsel for Municipal Corporations (AP) appearing for respondent No.2, submitted that the petitioner has earlier filed W.P.No.9394 of 2009, wherein one of the grievances raised by her is the alleged laying of road by respondent No.2 over her land and that this Court by its order, dated 18.09.2015, while dismissing the said writ petition, observed that as there is a serious dispute regarding the title, the appropriate remedy for the petitioner is to avail remedies of civil nature. This Court has adjourned this case to today to enable the learned counsel for the petitioner to get instructions on this aspect.

Today, at the hearing, the learned counsel for the petitioner has not denied the fact that the substantial issue raised in the present writ petition is one of the issues raised in W.P.No.9394 of 2009 and that the said writ petition was dismissed.

I have perused the order, dated 18.09.2015, in W.P.No.9394 of 2009. The said writ petition was filed for a *mandamus* to declare the proceedings, 10.09.2007, of respondent No.2 sanctioning building permission to respondent No.5 as illegal and arbitrary. It is apparent that one of the grievances raised therein was that respondent No.5 was trying to encroach her land for the purpose of laying a road. While dealing with the said allegation, this Court, in the aforesaid order,

dated 18.09.2015, in W.P.No.9394 of 2009, observed as under:

“....The allegation of the petitioner that the 4th respondent has been trying to encroach upon her land for the purpose of laying a road, is purely disputed question of fact which can be redressed by taking recourse to civil remedies. Disputes of civil nature which involves examination of minutes details cannot be gone into in proceedings under Article 226 of the Constitution. In the circumstances, I do not find any merit in the writ petition and it is accordingly dismissed. Miscellaneous petitions, if any, pending in this writ petition shall also stand dismissed. No order as to costs.”

Inasmuch as this Court relegated the petitioner to a civil suit for redressal of her grievance raised in the present writ petition in the order passed in the previous writ petition, I am not inclined to entertain this writ petition.

Accordingly, the Writ Petition is dismissed, however, with liberty to the petitioner to avail appropriate common law remedy, as permitted by this Court in the order, dated 18.09.2015, in W.P.No.9394 of 2009.

As a sequel to dismissal of the writ petition, W.P.M.P.Nos.53255 and 53256 of 2015 filed by the petitioner for interim reliefs shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

21st December, 2015

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