

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.24891 of 2011

ORDER:-

This Writ Petition is filed seeking a *Mandamus* declaring the action of the respondent authorities in proceeding to encroach into the southern boundary of the petitioner's land admeasuring 224 square yards situated in Town Survey No.176, New Yard No.1, Block 1/1, Barampet, Sattenapalli Road, Narsaraopet, Guntur District, by the side of the building bearing Door No.2-10-17, for the purpose of laying down an open drainage/culvert, as illegal, arbitrary and in violation of Articles 14 and 21 of the Constitution of India and also in violation of the provisions under Municipalities Act and for a consequential direction to the respondents not to proceed with the construction of a culvert/drain/sewerage by illegally encroaching the petitioner's southern boundary.

2. The case of the petitioner is that she is the absolute owner and possessor of 224 square yards of land situated in Town Survey No.176, New Ward No.1, Block.1/1, Barampet, Sattenapalli Road, Narsaraopet, Guntur District, having purchased the same under a registered sale deed dated 26.03.1997 and that to the south of her plot, there is an open canal which does not pass though her site, inasmuch as her site is bounded by stones in all directions. Her further case is that she submitted a plan to the respondent authorities for construction of building and the respondent authorities approved the same, but due to some financial constraints, she could not undertake construction and only sought to raise the level of the land up to the road as the site was a low-lying site. When the respondent authorities obstructed raising of level of land, the petitioner instituted a suit in O.S.No.449 of

2000 before the Principal Junior Civil Judge, Narsaraopet, for permanent injunction and the said suit was decreed in her favour. It is also her case that one J.Vijayasaraadhi, who purchased the vacant site to the southern side of the petitioner's plot based on illegal measurements, tried to encroach into her property and the said act was resisted by the petitioner by issuing a legal notice to the respondent authorities requesting them not to approve the plan without ascertaining the actual measurements. It is the further case of the petitioner that in the year 2004, when the respondent authorities tried to demolish the southern boundary of her plot for constructing a culvert, she got issued a legal notice to the respondent authorities questioning the said illegal act and the respondent authorities desisted their acts and that again on 11.08.2011, the officials of the respondent authorities visited the site and started marking on the southern boundary of her property and, having failed in her efforts to stop the said act of the respondent authorities, the petitioner has filed the present writ petition.

3. The case of the respondents, as narrated in their counter, is that though the petitioner applied for permission for construction of the building in her site and accordingly plan was approved, but no construction was carried out within the stipulated period and that as per the proceedings of the first respondent dated 03.06.1999, it is false to state that the respondent authorities obstructed the petitioner for levelling her land and that there is a boundary dispute between the petitioner and her neighbour J.Vijayasaraadhi with regard to the southern side of the petitioner's land and there were exchange of notices between them and that no permission plan was sought by J.Vijayasaraadhi as alleged by the petitioner and that the disputes between the petitioner and her neighbour can be sorted out under civil law remedies and the petitioner cannot seek remedy against the

respondent authorities by filing a writ petition under Article 226 of the Constitution of India. It is also the case of the respondents that they never tried to construct any culvert as alleged by the petitioner for the reason that the alleged culvert/canal is situated in the R&B Road margin which belongs to the R&B Department and that they neither have control over the said road nor have any authority to do any act in respect of that road. The main contention of the respondents is that they have no manner of right to take up any construction as alleged by the petitioner and that they are no way concerned with the relief sought by the petitioner in this writ petition.

4. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

5. At hearing, learned standing counsel for the respondents, while reiterating the submissions in the counter, has submitted that the respondent authorities are not making construction of any culvert as alleged by the petitioner, inasmuch as the said culvert or canal is situated in the R&B Road margin, which belong to the R&B Department and they have no control or authority to do any kind of alteration with respect to the said culvert/canal.

6. In view of the submission of the learned standing counsel for the respondents that the respondent authorities are not making construction of any culvert/drain/sewerage by illegally encroaching the southern boundary of the petitioner's land as alleged, this writ petition is disposed of placing on record the said statement of the learned standing counsel for the respondent. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any, pending in this writ petition, shall stand dismissed.

20th July, 2015
Bvv

A. RAJASHEKER REDDY, J