

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.29281 of 2015

Date:04.11.2015

Between:

K.Geeta Bai,

W/o K.Arjun Singh

..... Petitioner

And:

The State of Telangana, repled., by its

Principal Secretary, Municipal Administration

Department, Hyderabad and two others.

.....Respondents

Counsel for the Petitioner: Mr. K.Naveen Kumar

Counsel for Respondent No.1: GP for Municipal Administration (TN)

Counsel for Respondent No.2: Mr. N.Rishi Kumar

For Mr. N.Ashok Kumar

Counsel for Respondent No.3: Mr. Mahdev Anyarambhatla

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare the inaction of respondent No.2 in removing the shed put up by respondent No.3 over public lane as illegal and arbitrary.

Respondent No.3 filed a counter-affidavit, wherein he has *inter alia* taken the stand that the lane is a private lane. Though no counter-affidavit is filed on behalf of respondent No.2, Mr. N.Rishi Kumar, learned counsel representing Mr. N.Ashok Kumar, learned Standing Counsel for the Greater Hyderabad Municipal Corporation, on instructions, submitted that on considering the complaint of the petitioner, the officials of respondent No.2 have removed the shed erected by respondent No.3 and that thereafter, when respondent No.3 has re-erected the shed, the officials of respondent No.2 have again removed the same.

Mr. Mahadev Anyarambhatla, learned counsel for respondent No.3, asserted that the lane is a private lane and that therefore, his client is entitled to erect the shed.

Existence of a lane is not disputed by respondent No.3. Since he has set up the plea that the lane is a private lane, the burden lies on him to prove the said plea. Therefore, unless the competent Court of civil jurisdiction declares the subject lane as private lane, respondent No.3 cannot be permitted to re-erect the shed. As respondent No.2 is stated to have removed the shed erected by respondent No.3 over the disputed lane, no further adjudication of the Writ Petition is necessary. However, respondent No.3 is restrained from re-erecting the shed unless his right for such re-erection is declared by a competent Court of civil jurisdiction.

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

As a sequel to disposal of the Writ Petition, W.P.M.P.No.37945 of 2015 shall stand disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

04th November, 2015

DR

