

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

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Writ Petition No.31267 OF 2010

DATED:11.09.2015

Between:
Kancharla Sambasiva Rao,
Kommuru Village,
Agiripalli Mandal,
Krishna District.

... Petitioner

And

Kommuru Gram Panchayat,
Represented by its Panchayat Secretary,
Kommuru Village,
Krishna District.

Respondent

Respondents

...
...

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

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Writ Petition No. 31267 OF 2010

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ORDER:

Heard learned counsel for the petitioner. None appears for the respondent, though served.

The petitioner, in the instant writ petition, makes the following prayer:

“For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon’ble Court may be pleased to issue an appropriate Writ, Order or Direction more particularly in the nature of Writ of Mandamus declaring the action of the respondent herein in laying road in the petitioner’s land of an extent of Ac.0.10 cents in R.S. No.42/4 of Kommuru Village of Agiripalli Mandal, Krishna District without following the due process of law as arbitrary, illegal, capricious, and violative of right to property guaranteed under Art. 300-A of the Constitution of India and consequently direct the Respondent not to dispossess the petitioner from the land without following the due process of law and pass such other orders as may deem fit and proper in the circumstances of the case.”

On 21.2.2011, this Court passed the following order:

“WVMP.No.332 of 2011 is filed to vacate interim order dated 13.12.2010 in W.P.No.31267 of 2010.

The grievance of the writ petitioner is that the respondent is trying to lay a road over the land admeasuring Ac.0.10 cents in RS.No.42/4 of Kommuru Village, Agiripalli Mandal, Krishna District, belonging to him without following due process of law.

In the counter affidavit filed by the Panchayat Secretary of the respondent Gram Panchayath, it is *inter alia* stated that there

is no proposal either to lay a road or upgrading the existing road. He has further stated that after obtaining orders from this Court, the petitioner has illegally encroached the Gram Panchayath road and kept cattle feed thereon and fenced the same with acacia branches obstructing the traffic and public.

The learned counsel for the writ petitioner has denied the above allegation of the respondent.

Inasmuch as the respondent has come out with the stand that there is no proposal to lay the road, interim order dated 13.12.2010 is made absolute. However, if the petitioner is found encroaching the Gram Panchayath road, the respondent shall be free to take action against him in accordance with law.

Subject to the above observation, both WVMP and WPMP are disposed of.”

Having regard to the nature of prayer made in the writ petition and the interim order dated 21.2.2011, I am satisfied that this writ petition can be conveniently disposed of in terms of the interim order dated 21.2.2011.

Order accordingly.

This however shall not preclude the respondent-Gram Panchayat from taking any action against the petitioner, in accordance with law, if the petitioner is found encroaching the Gram Panchayat road. It is needless to mention that if the Gram Panchayat proposes to take any action, they shall follow the due process of law.

Consequently, pending miscellaneous applications shall also stand closed. No costs.

DILIP B. BHOSALE, ACJ

11th September, 2015

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