

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NO.10781 of 2015

Between :

Kakarla Venkateswara Rao S/o Late Soma Raju
R/o Musullagunta village, Nallajerla mandal,
West Godavari district

.... Petitioner

And

State of A P
Rep by its Principal Secretary,
Panchayat Raj Department,
Secretariat, Hyderabad and others

.... Respondents

DATE OF JUDGMENT PRONOUNCED : 18.8.2015

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SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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1. Whether Reporters of Local Newspapers may : / No
Be allowed to see the Judgments ? :

2. Whether the copies of judgment may be marked : / No
To Law Reporters/Journals :

3. Whether Their Lordship wish to see the fair : / No
Copy of the Judgment ? :

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 10781 of 2015

ORAL ORDER:

According to petitioner he is absolute owner of property admeasuring Ac.0.18 cents in Survey NO. 470/10 Musullagunta village, Dobacharla Revenue Division, Nallajerla mandal, West Godavari district and his sister is having Ac.0.02 cents in same survey number. Petitioner, his sister and mother partitioned the property and petitioner constructed house by leaving open spaces. According to petitioner, they left 4 yards of road width and 20 yards towards passage for ingress and egress. Petitioner claims this as his private way and that no one can interfere with the same. Alleging that the respondent Gram Panchayat is interfering with his possession, enjoyment and right of way which is private way, this writ petition is instituted.

2. Counter affidavit is filed on behalf of respondent Gram Panchayat. In para 10 of the counter affidavit, it is asserted that respondent Gram Panchayat is not obstructing the usage of such passage and petitioner has to prove his exclusive right over the subject passage before the competent Civil Court and he cannot seek such a declaration in the writ petition filed under Article 226 of the Constitution of India.

3. Prayer sought in the writ petition is to declare the action of second respondent in preventing, threatening and obstructing the petitioner to use the passage for ingress and egress to his house on the southern side and to issue a direction not to obstruct.

4. In view of the categorical statement of the Gram Panchayat that they are not obstructing use of passage for ingress and egress of the petitioner, the cause in the writ petition does not survive. Accordingly, the writ petition is dismissed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:18.8.2015
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HONOURABLE SRI JUSTICE P. NAVEEN RAO

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