

HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.37599 OF 2013

ORDER:

1. This Writ Petition is filed challenging the action of respondents 1 to 3 in not considering the notice of the petitioner dated 30.10.2013 requesting them to take action against respondent No.4 for preventing him and the residents to use the passage at Chejerla Village, SPSR Nellore District

2. In the writ affidavit, the petitioner averred that though he had issued a notice to respondent No.2 – District Panchayat Office and respondent No.3 – Extension Officer, Chejerla Gram Panchayat stating that he is the absolute owner of the house property at Chejerla Gram Panchayat in Assessment No.276, and that his forefathers had constructed the house in Sy.No.305/1 of Chejerla Village, that for providing ingress and egress to reach their house, constructed 8 feet 8 square yards width at the dead end, and that passage was constructed with cement, and a provision was also made for water connection and drainage connection on the road at the time of laying the cement road. He further stated that respondent No.4 had constructed a house without obtaining permission from the third respondent and he is using northern side entrance towards Raja Veedhi. Thus, he got issued a notice to respondent No.4 not to make any illegal constructions on the passage, blocking the passage for the

movement of the residents of that area. The petitioner further stated that he had contested for the post of President of Gram Panchayat, whereas the brother of respondent No.4 has won the elections and due to their influence, respondent No.4 is trying to block the passage by encroaching the road.

3. He further averred that he protested about the illegal activity of respondent No.4 in leaving the drainage water into the public road, and also raising steps into the road, and trying to put a gate into the private passage, which is of 8 sq. yards, necessary for movement from their houses. Therefore, he requested respondents 2 and 3 to take action to stop the illegal activities of respondent No.4. Therefore, he got issued a notice to respondents 1 to 3 to take action against respondent No.4 from encroaching the road. He further stated that even though respondents 1 to 3 received the notice of the petitioner on 30.10.2013, they did not give any reply, and therefore he filed this writ petition for a direction to respondents 1 to 3 for taking action to stop respondent No.4 from making constructions, on the road and also from obstructing the petitioner, for their usage of the passage.

4. Heard Sri G.Vasantha Rayudu, learned counsel for the petitioner, learned Assistant Government Pleader for Panchayat Raj & Rural Development (AP) for respondents 1

and 2 and Sri Ch.CKrishna Reddy, learned counsel for respondent No.4.

5. Respondent No.4 has filed counter denying the allegations made in the affidavit and stated that he has not made any constructions on the passage and that he has not caused any disturbance to the public for usage of the road. He has stated in para No.4 of his counter that the petitioner constructed his thatched house with one floor without obtaining any permission from the Gram Panchayat, Chejerla. He has further stated that he has not caused any obstruction for the movement of the residents of that area and that he did not try to forcibly make any constructions therein. He has also denied that he had let out the drainage water into the public road and had raised steps in a portion of public road, and he had tried to erect a gate into the private passage. On the other hand, respondent No.4 makes allegation against the petitioner that the petitioner had let out drainage water from the septic tank into the public street and that from times immemorial his predecessors and himself are using the said way in the street and now he put an iron gate towards his site which does not cause any obstruction to go in the street.

6. Learned counsel for the petitioner as well as learned Assistant Government Pleader fairly submitted that the

passage in dispute is a public passage, as it belongs to Panchayat, and it can be used by all the public.

7. On consideration of the allegations in the affidavit and the contents of the counter, it is obvious that there appears to be a rivalry between both the parties with regard to Panchayat elections which might have culminated into the trivial dispute between them. It is also obvious that there are allegations and counter-allegations against each other with regard to the usage of the public road. Since the Assistant Government Pleader has clearly stated that the passage is a public passage and everyone has got right to move on the same and since the counsel for respondent No.4 has also stated that respondent No.4 has not caused any obstruction, to the petitioner, or any of the public for the usage of the said passage and that he had not made any constructions over it, there is no need to issue any direction in this writ petition, as requested by the petitioner.

8. Since there are allegations that the houses are being constructed without obtaining permission, that aspect to be verified by the concerned Panchayat authorities and take appropriate action as per law.

9. In view of the clear admission made by learned counsel for respondent No.4 that respondent No.4 is not making any

illegal constructions on the public passage and also not making any obstructions on the passage, the same is recorded, and the writ petition is disposed of with the above observation. In consequence, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed. No order as to costs.

G. SHYAM PRASAD, J

Date: 23.09.2016.
TJMR

