

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.7349 of 2016

ORDER:

Heard Sri K. Vinaya Kumar, learned counsel for the petitioners, and Sri N. Praveen Kumar, learned Standing Counsel for the second respondent - Municipality.

The prayer of the petitioners in this case is as under:

“For the reasons stated in the accompanying affidavit filed in support of the writ petition, it is prayed that this Hon’ble Court may be pleased to issue writ or direction preferably Writ of Mandamus declaring the action of the respondents 2 and 3 in erecting the cement poles for the purpose of closure of the existing 30 feet metal road leading from East to North side of the house of the petitioners bearing H.No.9-2-136, Teachers’ Colony, Paloncha, Khammam District as illegal, arbitrary and violative of principles of natural justice and consequently, direct the 2nd respondent not to allow the 3rd respondent to construct compound wall and gate over the subject metal road and also remove the cement pillars and pass such other order or orders as the Hon’ble Court deems fit and proper in the circumstances of the case.”

The grievance of the petitioners primarily appears to be in relation to the construction raised by the third respondent over the road. However, the right of the third respondent to raise such construction was dealt with by this Court in W.P.No.7640 of 2010 and by order dated 06.08.2014, a learned Judge of this Court held in favour of the third respondent herein. This order was confirmed in appeal in W.A.No.332 of 2015 but it was left open to the appellants therein to file a civil suit for appropriate relief, if law so permits.

In the light of the earlier litigation, which ended in favour of the third respondent, it is not open to the petitioners to reopen the same though they were not parties to the earlier litigation.

The writ petition is misconceived and is therefore dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

Date:08.03.2016

GJ