

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.17964 of 2016
and
CONTEMPT CASE No.2274 OF 2016

COMMON ORDER:

Writ Petition No.17964 of 2016 is filed seeking the following relief:

“To issue a writ, order or direction more particularly one in the nature of a writ of mandamus declaring the inaction of the respondents in initiating any action restraining the respondents 5 and 6 from interfering with the petitioner’s peaceful possession and enjoyment of their land admeasuring Ac.0-48 cents in Sy.No.191/44B in Jettigundlapalli, Ugranapalli P.O., Penumur Mandal, Chittoor District, Andhra Pradesh and to consequently drop all further proceedings of construction of the temple on an existing road in survey No.199 and to further take steps to remove the said structure of workshop and to pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case”.

The brief facts, as averred in the writ affidavit, are that the petitioners are residents of Jettigundlapalli Village, Ugranapalli P.O., and they are the absolute owners and possessors of the vacant land, admeasuring Ac.0-48 cents, situated in Sy.No.191/44B in Jettigundlapalli, Ugranapalli P.O., Penumur Mandal, Chittoor District, as it is their ancestral property and they have been in possession and enjoyment of the said property for the last 50 years. It is further averred that there is an existing R&B road, situated in Sy.No.199, passing just adjacent to the petitioners’ property, which is being used by them for their ingress and egress. The petitioners laid fencing around the said land and also obtained permission for construction of a house therein. It is

further submitted that on 30.05.2016, respondent No.6 along with his associates, with the active support of some of the villagers and also in collusion with the 3rd respondent, placed a stone in the middle of the road as a deity and started worshipping the same, which was never worshipped by the local residents on earlier occasion for the last 50 years and also planning to construct a temple in the midst of the road. It is further submitted that there is an attempt to encroach petitioners' land under the guise of construction of a temple in the near future and respondents 3, 5 and 6 are continuously interfering with the petitioners' peaceful possession and enjoyment of the subject land. Hence the present Writ Petition.

Considering the nature of the relief, which the petitioners sought, on 14.06.2016, this Court, while ordering notice in W.P.M.P.No.22077 of 2016, granted stay of construction of the temple and also directed to initiate action on the petitioners' representation, dated 30.05.2016.

The 3rd respondent-District Panchayat Officer, Chittoor District has filed a counter affidavit denying all the allegations of the petitioners. It is asserted by him that he has not issued any instructions either in writing or orally to the 5th respondent or to anyone for erection of any deity. However, it is stated that as per the information provided by the Panchayat Secretary, certain villagers are performing Tirupati Gangamma Jathara every year in the month of May besides the R&B road and performing pooja to the goddess, which is in the form of stone, from the last several generations. It is further asserted that there is no construction

activity of the temple going on in the middle of the road, as stated by the petitioners and the allegations made by them are denied.

Likewise, the 5th respondent-Panchayat Secretary also filed a counter, who also asserted that certain villagers have been performing Tirupati Gangamma Jathara every year in the month of May besides the R&B road. It is further asserted that there is no construction activity of the temple going on in the middle of the road, as stated by the petitioners. Hence prayed for dismissal of the Writ Petition.

A reply affidavit is also filed by the petitioner to the counter affidavit of the 5th respondent. The assertion of the 5th respondent that every year in the month of May certain rituals are being performed by the villagers to the goddess 'Tirupathi Gangamma' on the R&B road, located in Sy.No.199, is false and the petitioners being the owners of the adjacent land in Sy.No.191 had never witnessed such activities in the past. It is only the persons viz., B. Bhaskar Naidu, V. Munniswamy Naidu, V. Janakirama Naidu, K. Subramanyam Naidu, K. Ram Murthy Naidu, K. Sudarshanam Naidu, K. Ramesh Naidu, S. Muni Krishnan Naidu, S.Madhusudhan Naidu, with the active connivance of the 3rd respondent, had placed a stone in the middle of the road and further made the stone as a deity and started worshiping the same. The other aspects of the writ affidavit are reiterated in the reply affidavit.

Having considered the respective submissions, which is needless to mention, it is to be observed that the respondents are duty-bound to protect the public roads. While it is asserted by the respondents that there is no pooja performed in the middle of the

road, they tacitly admitted that rituals like pooja is being performed adjacent to the road to a stone. Trusting and believing in every stone to be a god by some of the Indians cannot be stopped. So far as the respondents are concerned, they are under obligation to protect the roads and its road margins. From the photographs placed before this Court, it is crystal clear that the alleged performance of rituals is adjacent to the road, which has been allowed for performance of future extension of the road, wherein the tree plantation has been taken up. In other words, there is also no denial of the fact that the same is Government land and making of any construction of the nature, be it a temple, mosque or a church, would only be a hindrance to the free flow of traffic, if not today, eventually.

In those circumstances, the Writ Petition is disposed of with a direction to respondents 2 to 5 to ensure no constructions are made on the road margins even now or in future.

In the light of the orders passed in this Writ Petition, the Contempt Case No.2274 of 2016 is closed.

Consequently, Miscellaneous Petitions, pending if any, in this Writ Petition, shall stand closed.

CHALLA KODANDA RAM, J.

Date: 22.11.2017.
Ssv