

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 9137 of 2016

ORDER:

1) The present writ petition came to be filed with the following prayer:

“issuance of writ of mandamus declaring the action of the official respondent and un-official respondents in trying to take over the petitioner’s land in Sy.No.1408 vide DKT No.498/ 90 of yerraguntakota Village, Obulavaripalle Mandal, Kadapa District, and laying a road/ rasta in the said land high handedly on 17.03.2016 by the respondents as illegal, arbitrary, unconstitutional and in violation of the principles of natural justice and without following due process of law; and consequently direct the respondents not to enter into the land of petitioner in Sy.No.1408 and not to disturb the peaceful possession and enjoyment of the petitioner over the said land; and also not to lay any further road/ rasta in the said land.”

2) By an order dated 18.03.2016, this Court while admitting the writ petition granted interim direction, directing the respondents not to enter into the land of the petitioner admeasuring Ac.5.00 in Sy.No.1408 of Yerraguntakota Village, Obulavaripalle Mandal, Kadapa District, not to disturb the peaceful possession and enjoyment of the petitioner in the said land and also not to lay any pucca road/ rasta without following due process of law and without issuing any notice to the petitioner.

3) Though the prayer in the writ petition was to declare the action of the respondents in laying a road through the land of the petitioner as illegal, the learned counsel for the 7th respondent submits that she has no objection for the oral request made by the petitioner seeking to question the proceedings dated 11.03.2016 issued by the fourth respondent.

4) Having regard to the concessions made by both the counsel, it may not be necessary to go into the factual aspects. Suffice would it be to deal with the proceedings dated 14.03.2016, by which the rights of the petitioner are affected.

5) A perusal of the material on record would show that a notice dated 08.02.2016 was never issued to the petitioner and the proceedings dated 11.03.2016 came to be passed prior to the notice dated 14.03.2016 to the petitioner. Though the learned counsel for respondents would contend that notice dated 08.02.2016 was issued and served on the son of the petitioner, but the same shall not amount to service as the land is in the name of the petitioner. It appears that the proceedings dated 11.03.2016 came to be passed even prior to issuance of notice dated 14.03.2016 to the petitioner thereby denying the petitioner in submitting his explanation, violating the principles of natural justice. In view of the above, the proceedings dated 11.03.2016 is accordingly *set aside* and the matter is sent back to the fourth respondent herein to conduct fresh enquiry on 04.06.2017, after hearing the petitioner, un-official respondents and aggrieved

persons, if any, and pass orders in accordance with law, at the earliest. It is made clear that issuing of any further notice to the parties will not arise since the counsel for both the parties undertake to inform their clients regarding the enquiry to be conducted by the authorities on 04.06.2017.

6) With the above direction, the writ petition is disposed of. There shall be no order as to costs.

7) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

27.04.2017

Note: Issue C.C. tomorrow.

B/o
gkv

JUSTICE C. PRAVEEN KUMAR

