

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.37874 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed seeking the following relief:

“...to issue an appropriate writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the respondent laid the road in the petitioners plot in an extent of 105 square yards in Sy.No.92/D situated at Wadapally Revenue Village of Greater Warangal Municipal Corporation, Warangal is illegal, arbitrary, contrary to the provisions of Municipalities Act, violation of the orders of this Hon'ble Court and principles of natural justice and as well as the fundamental rights guaranteed under the Constitution of India and consequently direct the respondent to remove the road laid in the petitioners land in an extent of 105 Sq. Yards in Sy.no.92/D situated at Wadapally Revenue Village of Greater Warangal Municipal Corporation, Warangal and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. I have heard the submissions of *Sri A.Jagan*, learned counsel appearing for the petitioners; learned Government Pleader for Municipal Administration & Urban Development appearing for the 1st respondent; *Smt. Pingali Lakshmi*, learned Standing Counsel appearing for the 2nd respondent; and, of *Sri M.Ajay Kumar*, learned Standing Counsel appearing for the 3rd respondent. I have perused the material record.

3. Learned counsel appearing for the petitioners would submit that when there was an attempt to lay a road in the subject property, the petitioners approached this Court by filing W.P.no.22268 of 2017; and, that during the course of hearing of the said writ petition, it is represented by the 2nd respondent Municipality that it is not laying any road and that it has no intention to lay a road through the property of the petitioners, and that

therefore, the said writ petition was disposed of directing the petitioners to proceed against the persons, who are attempting to lay a road illegally through their property.

4. In the present writ petition, the grievance of the writ petitioners is that subsequently a road has been laid high-handedly and illegally in the subject property of the petitioners. The petitioners *inter alia* allege that the road has been laid by the official respondents.

5. However, in reply, learned Standing Counsel, on instructions, would submit that no road has been laid by the 2nd respondent and that if any private persons like the neighbours of the petitioners have laid any road on the property of the petitioners, the petitioners, as directed in the earlier orders of this Court, have to approach an appropriate Forum and seek an appropriate remedy against such private parties.

6. Learned counsel for the petitioners would submit that since the Corporation has not laid the road and that the private parties have no right to lay a road, that too, in a private property, liberty may be given to the petitioners to remove the road at their expense and thereafter claim costs of such removal from the parties concerned.

7. Recording the said submissions, the Writ Petition is disposed of reserving liberty to the petitioners to remove the road said to have been laid in the subject property at their own cost. If the petitioners are so advised and so desire, they may recover such costs incurred in the said process from the concerned by having recourse to law. It is made clear that the petitioners under the guise of these orders shall not make any constructions in the subject property without obtaining a building permit.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

29.11.2017
RAR

M.Seetharama Murthi, J

