

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.35040 OF 2017

Date: 25.10.2017

Between:

Matta Kondalu @ Matta Kondala Rao, s/o. Gopaiah,
Aged 51 years, Occu: Agriculture, R/o. Komatikunta
Village, A.Konduru Mandal, Krishna District, A.P.,

.....Petitioner

and

The Chief Secretary, Government of Telangana,
Secretariat, Hyderabad and others.

.....Respondents



The Court made the following:

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ORDER:

Petitioner claims that he owns land to an extent of Ac.4.00 in Sy.No.733/3 of Komatikunta village, A.Konduru Mandal, Krishna District. According to petitioner, on Western side of above land, there exists a Cart-way from the time immemorial, which is being used by petitioner and adjoining land owners to ingress and egress their agricultural fields and there is no other way by which they can access to their agricultural lands. After the said Cart-way, 9th respondent owns Ac.15.00 of land in Sy.No.25 of Kachavaram village, Yerrupalem Mandal, Khammam district. According to the averments in the affidavit filed in support of the writ petition, 9th respondent instituted O.S.No.98 of 2016 pending on the file of Junior Civil Judge at Madhira, Khammam District, wherein petitioner herein is the defendant, praying to grant permanent injunction in respect of the dry land to an extent of Ac.2.00 guntas in Sy.No.25/A of Kachavaram village. It is alleged that 9th respondent obtained ad-interim injunction and under the guise of ad-interim injunction order, he is causing lot of inconvenience to the petitioner and other land owners. Therefore, petitioner filed this writ petition.

2. Learned counsel for petitioner contends that incidentally the Cart-way is in both States and unless joint survey is conducted by both States, no useful purpose would be served and, therefore, he seeks direction to the respondent authorities to conduct joint

survey to demarcate the Cart-way, so that petitioner can access to his agricultural land without any hindrance.

3. As briefly noted above, O.S.No.98 of 2016 is pending on the file of Junior Civil Judge, Madhira, which concerns property in Kachavaram village. Apparently, injunction order is operating. Further petitioner applied to the Deputy Inspector of Survey, Nuziveedu, for demarcation of his land, to fix the boundaries and to erect the boundary stones. If petitioner has any grievance regarding attitude of 9th respondent in obstructing the Cart-way, he ought to have availed remedy as available in law against such obstruction so also on the action of 9th respondent, as alleged, in not cooperating for conducting of survey.

4. This Court repeatedly asked the learned counsel for petitioner as to how both States are concerned in identifying the Cart-way and in preventing 9th respondent from obstructing Cart-way and how joint survey by both States is required. Furthermore, in the prayer portion of the writ petition, petitioner mentioned about ingress and egress to his land in Sy.No.733/3 of Komatikunta village, which is in Konduru Mandal, Krishna district, whereas the land on which dispute is pending is in Sy.No.25/A of Kachavaram village in Yerrupalem Mandal, Khammam district. How these two different properties in two different villages falling in two States are concerned with the Cart-way is not stated. Learned counsel could not clarify the same in spite of repeatedly asking him to clarify.

5. It appears from the pleadings, there is *inter se* dispute between the petitioner and the 9th respondent and petitioner is

trying to drag on the proceedings into public law field by seeking to conduct survey by two States. More so, when civil litigation is pending. No case is made out for entertaining the writ petition. Writ petition is dismissed accordingly, leaving it open to the petitioner to workout his remedies as available in law.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

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