

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.38999 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“For the reasons stated in the accompanying affidavit, the petitioner herein pray that this Hon’ble court may be pleased to issue writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the respondents 3 & 4 in not taking action to clear the encroachments on road margin of Vanapalli to Mukkamala road in Sy.No.386 more particularly at the property of the petitioner in Sy.No.364/1 of Vanapalli Village, Kothapeta Mandal, East Godavari District is illegal, arbitrary, and violative of principles of natural justice consequently directing the respondents to remove the encroachments on road margin and not to allow any pucca constructions in public property in particularly in road margin and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

(Reproduced verbatim)

2. I have heard the submissions of Sri *T.V.S. Prabhakar Rao*, learned counsel appearing for the petitioner, learned Government Pleader for Roads and Buildings appearing for the respondents 1 to 3 and of the learned Government Pleader for Revenue appearing for the 4th respondent. I have perused the material record.

3. The submission and grievance of the writ petitioner is as follows: The writ petitioner’s father and mother enjoyed the subject property of Ac. 0.56 cents in Survey No.364/1 of Vanapalli Village, Kothapeta Mandal, East Godavari District, and that when there was a title dispute, there was verification of records and later, the pattadar passbook and title deed book were issued in favour of the father of the petitioner and that after the demise of the father and mother, the petitioner is enjoying the subject property and that to the East of the subject property, there is a way to reach the main road and the petitioner’s family is using the same for ingress and egress and that some third parties encroached the road margin to a width of nearly 15 feet and a length of 98 feet at the entrance point of the path way and that

despite a representation in the form of a legal notice, dated 03.04.2017, and a representation, dated 18.09.2017, the respondents are not removing the encroachment made on the road margin.'

4. Learned counsel for the petitioner would submit that if the respondents are directed to consider and dispose of the said legal notice, dated 03.04.2017, and representation, dated 18.09.2017, the ends of justice would be met.

5. Learned Government Pleader would submit that the writ petition is filed without impleading the persons who have allegedly encroached upon the road margin and that, therefore, the writ petition is not maintainable.

6. Having regard to the facts and submissions, the Writ Petition is disposed of directing the respondents to consider and dispose of the submissions in the legal notice, dated 03.04.2017, and representation, dated 18.09.2017, of the petitioner within a period of three (03) weeks from the date of receipt of a copy of this order, however, in strict accordance with procedure established by law after giving an opportunity of hearing to the alleged encroachers of the road margin and communicate the decision taken thereon to the petitioner within a week thereafter.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 21st November, 2017
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