

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.28236 OF 2007

ORDER:

This Writ Petition is filed complaining that the third respondent allowing the third parties to lay road in petitioner's land in an extent of 916 sq.yards (500 ft in length and 33 ft in width) in survey No.620 of Shamshabad Village and Mandal, Ranga Reddy District (for short 'the subject land') instead of widening the road in the land earmarked for the same i.e. the land purchased for widening of the road, which is under encroachment of unauthorized persons, and consequently direct the respondents to lay the road afresh in the land, which is actually earmarked for the road, purchased for widening of the road, restoring the subject land of the petitioner.

2. Petitioner states that he had purchased land to an extent of Ac.0.30 guntas covered by survey No.620 situated at Shamshabad Village and Mandal, Ranga Reddy District, through registered sale deed bearing document No.596/1986 dated 30.01.1986 and beyond said survey number there are houses, lay out and farms owned by Mr.Jagadeesh Reddy, Mr.Sanjay Patel, Mr.Dilip Seth and others. 20' wide Gram Panchayat road from Shamshabad to Kothaguda was existing in the said place. However, the said persons including the petitioner wanted to widen the road from 20' to 33' for which they jointly purchased the land adjoining the existing road to an extent of Ac.0-12.04 guntas through a registered sale deed No.20101/2006 dated 05.10.2006 since the Gram Panchayat people are not in a position to take the steps for road widening and handed over the said land to Gram

Panchayat for laying the extended road of 33' width. However, some unauthorized persons encroached the road belonging to Gram Panchayat and constructed houses. As such, the matter was reported to the Executive Officer of the Gram Panchayat, the Mandal Revenue Officer as well as Police. But instead of taking action against the encroachers, the Gram Panchayat without conducting any survey laid the road in petitioner's lands by encroaching an extent of 33' width and 500' in length. In view of laying of the road by Gram Panchayat in petitioner's land to an extent of 916 Sq.yards, leaving the remaining land, the land to an extent of 3600 sq. ft. wherein the petitioner is running the school, stands effected. *In spite* of complaint, the Gram Panchayat has not taken any action to prevent laying of the road by private people illegally in petitioner's land. Hence, the Gram Panchayat is guilty of omission on its part to take action against the persons, who got laid the road. The Gram Panchayat acted in a high handed manner by allowing third parties to lay the road in petitioner's property. Hence, this Writ Petition is filed seeking to declare the action of the respondents in laying the road in petitioner's land, as illegal and arbitrary.

3. The third respondent filed a counter affidavit denying the averments made in the writ affidavit stating that the petitioner along with others purchased the land to an extent of Ac.0-12.04 guntas vide document No.20101/2006 dated 05.10.2006 for widening the road and handed over the same to Gram Panchayat as the Gram Panchayat was not in a position to take steps for road widening. As per the records available, the third respondent has not granted any permission to the petitioner

to construct the compound wall. It is further stated that earlier the petitioner filed writ petition alleging that the third respondent was aiding third parties to lay the road and caused damage to petitioner's compound wall. The third respondent, on enquiry, came to know that the alleged road widening was undertaken by the surrounding people of that locality and the third respondent is nothing to do with the widening of the road and no record is found in the Gram Panchayat regarding widening of the road. On receipt of representation from the petitioner, the second respondent issued Savingram dated 17.12.2007 directing the third respondent to submit report along with connected records for taking necessary action at an early date. The third respondent submitted report dated 01.01.2008 stating that he visited the alleged widening of the road and found that the said road widening work was taken up by one Jagadish Babu and 8 others in their private land, which was purchased by them, and the Gram Panchayat is nothing to do with laying of the road. It is further stated that the complaint vide letter No.B/2748/2013 dated 13.12.2013 was made before the Station House Officer, PS Rajiv Gandhi International Airport, Shamshabad, against the petitioner. On the basis of the report filed by the Mandal Revenue Inspector and the Village Revenue Officer dated 13.12.2013, petitioner damaged and encroached Ac.0.20 guntas of land of Phiranginala adjacent to the patta land and tried to level the land in order to grab the government land. Hence, prayed to dismiss the writ petition.

4. Heard both sides and perused the material on record.

5. This Court on 20.12.2007 passed an interim order directing the Gram Panchayat to follow due process of law while laying the road.

6. Sri Samson Rao, learned counsel for the petitioner, would contend that the petitioner purchased the land to an extent of Ac.0.30 guntas in survey No.620/A of Shamshabad (V) through registered sale deed and running a recognized school therein. The road from Shamshabad to Kothaguda passes through the north side of the petitioner's land. Petitioner constructed a compound wall around his land. Since the third respondent allowed third parties to lay the road in petitioner's land by damaging the compound wall, petitioner filed this Writ Petition.

7. Learned counsel would further contend that the third respondent instead of taking action against the encroachments made by Jagadish, allowed the third parties to lay the road by encroaching the petitioner's land. The third parties at the instance of third respondent laid the road in petitioner's land instead of laying the road in the land purchased by the petitioners and others and handed over to the Gram Panchayat for road widening purpose. *In spite* of representations, the third respondent failed to prevent the third parties to lay the road. In those circumstances, the petitioner filed amendment petition seeking amendment to the prayer in the writ petition seeking a consequential prayer to restore the land of the petitioner to an extent of 916 Sq. Yards in which the third respondent allowed the third parties to lay the road and also to direct the respondents to lay the road in the land

purchased for the purpose of laying of the road by removing encroachments therein.

8. Per contra, the learned Government Pleader appearing for third respondent would contend that the third respondent is nothing to do with the laying of the road by third parties and as per records, the third respondent has not allowed any third parties to lay the road. It is the dispute between private parties and the petitioner and the third respondent is nothing to do with laying of the road in petitioner's land. Hence, no relief can be granted in this writ petition.

9. In the facts and circumstances of the case and in considered view of this Court, it is found that the third respondent allowed third parties to lay road in petitioner's land to an extent of 916 sq. Yards high handedly instead of laying the road in the land purchased and handed over by the petitioner and others to the Gram Panchayat for the purpose of widening of the road, by removing the encroachments. The third respondent failed to take steps to remove the encroachments and lay the road in the land given by the petitioners and others. Hence, the respondents are directed to restore the land, where the road is laid, to the petitioner or in the alternative pay compensation, as per law, to the petitioner for the road laid in petitioner's land.

10. Accordingly, this Writ Petition is disposed of directing the respondents to restore the land of the petitioner, wherein the third respondent allowed the third parties to lay the road, or in the alternative to pay compensation to petitioner in respect of his land wherein the road was illegally laid. The said exercise shall be

completed within a period of four months from the date of receipt of a copy of this order.

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

(M.GANGA RAO, J)

15th March, 2018
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