

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.4823 of 2018

ORDER:

Heard learned counsel for the petitioner and Sri Ch.Madhu, learned Standing Counsel for respondent Nos.2 and 3 and learned Government Pleader for Municipal Administration for respondent No.1 and perused the prayer in the writ petition with supporting affidavit and the counter affidavit of respondent No.2 and reply affidavit of the petitioner.

2. The prayer in the writ petition reads as follows:

“For the reasons stated in the accompanying affidavit the Petitioner prays that this Hon’ble High Court may be pleased to pass an Order, Direction or Writ particularly one in the Nature of Writ of mandamus directing the respondents to cover the NALA on the west of the Petitioner’s Property at Alwal, to restore ingress and egress to the petitioner’s family and pass such other and further orders as deemed fit and proper in the interest of justice.”

3. It is the submission of the petitioner’s writ petition affidavit averments vis-à-vis the oral submission of the learned counsel for the petitioner that on 06.01.2017 the GHMC authorities demolished the retention wall and dug away the road by using proclainers, from which there is a big ditch and deep sewerage water, depriving the petitioner’s family for ingress and egress from the house preventing the right of access by said negligent acts and at the instance of the neighbour, from which the petitioner and the inmates are unable to

approach the road from the house and drain water is flowing into their house and they are constrained to park their car, scooter and cycle on the road and were to jump from the existing drainage, because there is no any temporary arrangement made to cross the drainage channel, which made them to file the writ petition.

4. The counter-affidavit averments of the Deputy Commissioner-3rd respondent are that the neighbour filed earlier W.P.No.34537 of 2016 that was disposed of by the High Court on 18.10.2016 directing the GHMC to take necessary action on the representation of the said writ petitioner alleging encroachment on the nala by the present writ petitioner, to cause remove after giving notice to the present writ petitioner-5th respondent therein and according to law within six weeks. Pursuant to which, notice, dated 30.11.2016, issued to the present writ petitioner to remove the objectionable earthen road formed across the nala by encroaching it and for no reply received including for the notice, dated 05.01.2017, to remove within 24 hours, they were constrained to remove the earthen road blocking the flow of the nala and the contra affidavit averments are untrue. It is also averred that for construction of a box drain of 4.5 m x 1.5 m and raft work and fabrication of steel for side wall completed and tenders called for, for taking up the balance work of side wall concrete and top slab and no bidders are coming forward and the fresh bid by tenders called for will be opened on 02.03.2018 and they are going to

complete the work soon and they will arrange for access towards the C.C. road from their northern side house vice versa, thereby the writ petition is liable to be dismissed.

5. What the reply affidavit of the writ petitioner is in saying it is hardly believable of no contractor is coming forward to complete the work all through but for the lapsity of the authorities at the instance of the neighbour, who was petitioner in W.P.No.34537 of 2016 to cause trouble the present petitioner. A perusal of the photos filed with the writ petition as enclosures clearly show the petitioner family members are unable to come out because of the demolition and drain water is flowing through opposite to their house without completion of construction of the drain and without access over the drain to reach the road and vice versa for their ingress and egress and the work is incompletely left.

6. Having regard to the above, the respondents within one week from the date of receipt of the order either complete the construction or make temporary arrangement for the ingress and egress of the petitioner from their house to road and vice versa, failing which the petitioner can make his own arrangements without obstructing the flow of drain water.

7. Accordingly and with the above directions, the writ petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

8th March 2018

mar

Dr. B. SIVA SANKARA RAO, J

