

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.26973 OF 2011

ORDER:

The relief sought for in this Writ Petition is for a mandamus to declare the action of the Commissioner, Kurnool Municipal Corporation, in blocking the passage of the petitioner's land in Sy. No.193/4B at Hundrygadda, Kurnool leading to the road, as illegal, arbitrary and opposed to law. While the Writ Petition was admitted on 18.10.2011, no interim order was passed. The petitioner's claim in the Writ Petition is that he was in possession of land admeasuring 5 cts in Sy. No.193/4B of Hundrygadda poramboku; and the 1st respondent was blocking the passage of the petitioner from his house by erecting grills in front of the petitioner's plot. Allegations are also made, in the writ affidavit, of attempts being made by the Kurnool Municipal Corporation to demolish the petitioner's hut; since the attempt to take over possession of the petitioner's plot was unsuccessful, the Municipal Corporation had resorted to the illegal exercise of blocking the passage leading to the road from the petitioner's plot; and a grill was erected.

In the counter-affidavit filed by the Kurnool Municipal Corporation, it is stated that the road, shown by the petitioner, is a colony road vested in L.P. No.383/80; it is not connected to the site which the petitioner claims to own; the petitioner's claim is to site of around 40 cts abutting the Hundrygadda river; the question of the respondent destroying the hut does not arise, as the subject land is poramboke land belonging to the Government in the irrigation department; and the municipal corporation has no right over the said land. It does appear, from the counter-affidavit, that the petitioner's contention, that a grill was erected on the road, is unfounded.

Sri M. Vidyasagar, Learned Counsel for the petitioner, would draw attention of this Court to the resolution of the Kurnool Municipality dated 05.06.1989 wherein the request made by one Sri Thimmanna (i.e the petitioner's father) is said to have been recommended for grant of a patta in their favour. As noted hereinabove, the relief sought for in the Writ Petition is for a mandamus to declare the action of the Kurnool Municipality in blocking the passage to the petitioner's land. Since this claim of the petitioner has been denied in the counter-affidavit filed by the Kurnool Municipal Corporation, and as no reply affidavit is filed thereto, I see no reason to disbelieve the contents of the counter-affidavit. The relief sought for in the Writ Petition cannot, therefore, be granted. Suffice it to make it clear that this order shall not disable the petitioner from availing his legal remedies for grant of a patta in terms of the resolution of the Kurnool Municipal Corporation. The Writ Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

(RAMESH RANGANATHAN, ACJ)

Date: 20.04.2018

MRKR