

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.10266 of 2016

ORDER:

Heard the learned counsel for petitioner and the learned Government Pleader for Irrigation appearing for respondents.

2. Petitioner's grievance is that existing cart track available for times immemorial for use of the petitioner and other villagers at Nossam village, Sanjamala Mandal, Kurnool District to go to Kambaladinne village and which is reflected in the village map also, has been cut by the Irrigation Department officials without providing for any bridge or culvert over the SRBC canal where it cuts the existing track.

3. Petitioner contends that if the cart track cut is done, all the villagers would suffer irreparable loss and that the petitioner and his relatives who own Ac.148.00 cts of land beyond the canal would enable to reach their land, if the cart track is removed and no culvert or bridge is provided therefor. They also contend that farmers will have to travel several kilometers to cross the canal and formation of new cart track will involve loss of agricultural land which farmers will resist.

4. In the counter affidavit filed by the Irrigation Department officials (respondent Nos.1 and 2), it is stated that the cart track exists in the said village at KM 164.200 but the same is not being utilized

for movement of traffic. On what basis the respondents have come to this conclusion, when according to the petitioner, the existence of cart track is also indicated in the village map, without consulting the Revenue or Roads and Buildings Department officials, is not mentioned in the counter affidavit.

5. Respondents also contend that there is separate road built by Roads and Buildings Department from Nossam village to Kambaladinne village without touching the existing SRBC canal. But the petitioner disputes the same and say that it is 20 km away and is not at all convenient for use to the petitioners and other villagers.

6. The further statement in the counter affidavit that if a bridge or culvert is constructed, it would result in an additional cost to the Government and the petitioner can use a super passage created for flow of rain water, cannot be countenanced since the access of the villagers through the existing cart track cannot be allowed to be arbitrarily interfered with without providing them proper access to reach their agricultural lands, and they cannot be compelled to travel 20 kms, or swim in the super passage when it is filled with rain water, to have such access.

7. Accordingly, the action of the respondents in not making construction of a bridge/culvert across the newly formed SRBC canal at the point where it cuts the existing cart track at 164.200 KM between Nossam village and Kambaladinne village is declared as illegal and

arbitrary and the respondents are directed to construct bridge or culvert over the SRBC canal at the point where it cuts the cart track from Nossam village to Kambaladinne village within two months from the date of receipt of a copy of this order.

8. The Writ Petition is accordingly allowed with the above directions. No costs.

9. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

Date: 17-07-2018
kvr

JUSTICE M.S.RAMACHANDRA RAO

