

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.13854 OF 2007

ORDER

This writ petition is filed to issue a Writ of Mandamus declaring the action of the respondent authorities in trying to lay the road in the land of the petitioner in Sy.No.669 of Tadakamalla Village, Miryalaguda Mandal, Nalgonda District, as arbitrary and illegal.

It is the case of the petitioner that he is the owner and possessor of an extent of Ac.4.04 guntas in Sy.No.669 of Tadakamalla Village and doing horticulture in it. He developed the citrus garden spending huge amount obtaining bank loan to a tune of Rs.10,00,000/-. He has also grown black gram crop as inter-crop. When the contractor removed the thorn bush fencing, huge loss was caused to the petitioner. The petitioner also planted palm trees inside the thorn bush fencing which is 3 meters inside from the boundary. A 66' road leading from Agamothkur to Tadakamalla is existing between Sy.Nos.669 and 655 and the same is very old road as shown in the village map. It is stated that the respondent authorities are trying to lay the road through the agricultural land in Sy.No.669 of Tadakamalla Village. The respondents have already encroached into petitioners' land in Sy.No.669 upto more than 10'. The respondents under the Prime

Minister Gram Sadak Yojana are trying to extend the road by encroaching into the land of the petitioner in Sy.No.669, while allowing the persons, who encroached the other side of the road to continue their possession on the Government land which is ear-marked for the road. The action of the respondents in trying to lay the road through the petitioner's land without any notice to the petitioner and without initiating proceedings under the Land Acquisition Act, is illegal and arbitrary. Hence, the present writ petition is filed.

While admitting the writ petition, this Court on 2.7.2007 *vide* WPMP No.17386 of 2007 directed the respondents not to lay the road in the land of the petitioner in Sy.No.669 of Tadakamalla Village, Miryalaguda Mandal, Nalgonda District.

Counter-affidavit is filed on behalf of the 2<sup>nd</sup> respondent stating that they are strengthening the road leading from Agamothkur to Thadkamalla Village, which was laid more than three decades back with the existing width of 33'-00". The road was formed earlier with a width of 33'-00" only. The length of the road is 13.50 KMs with two layered WBM (Water Bound Macadam) existing surface. The road is connecting two Mandals of Vemulapally and Miryalguda and also two constituencies of Miryalaguda and Nakrekal. The road also

connects major villages of Thadkamalla, Agamothkur, Bommakal and Salkunoor and three major R & B roads. Earlier, different grants were released for constructions and maintenance under RRM, RR&RBR and URY in 1991, 1992, 1994 and 2002 and those constructions were successfully completed. No objection was raised by any of the villagers or farmers during construction and maintenance. It is further stated that the Executive Engineer of Panchayat Raj Division, Miryalguda, has requested the District Magistrate and Collector, Nalgonda vide Lr.No.DB4/PMGSY-V/1308/EEM/2007-08, dated 15.06.2007 for conducting resurvey and to settle the issue. Accordingly, the Assistant Director of Survey and Land Records, Nalgonda has conducted survey and submitted the report vide Lr.No.A5/692/07, dated 22.06.2007 along with map duly following procedure. A notice was also served to one Donthireddy Venkat Reddy, Narsi Reddy and Janaki Reddy of Ravulapenta Village and others vide notice No.B1/1352/07, dated 16.06.2007 by the Tahsildar, Miryalguda. Resurvey has been conducted to fix up boundaries among Sy.Nos.655, 669, and 670 and boundaries were fixed by competent authority. From the above survey, it is clear that neither the road is extended nor the land in Sy.No.669 and 655 was encroached.

Hence, the road is laid within the Government land of 33'-00" only and there is no encroachment as claimed by the petitioner. Panchayat Raj Engineering Department is taking up the up-gradation of existing road by providing additional WBM (Water Bound Mecadam) layers and BT surface. Consent of adjacent farmers is not required while up-gradation is proposed for a length of 13.50 kms and there is no necessity to issue notices.

Learned counsel appearing for the petitioner would contend that the respondents are high handedly laying the road by encroaching the land of the petitioner situated in Sy.No.669 of Thadkamalla Village, Miryalaguda Mandal, Nalgonda District, without issuing any notice and payment of compensation, which is illegal, arbitrary and violative of Articles 14, 21 and 300-A of the Constitution of India.

On the other hand, learned Government Pleader submits that the respondents are strengthening the existing BT road width of 33 feet out of 66 feet and the respondents have not encroached the land of the petitioner and hence, no notice is required and that payment of compensation does not arise.

It appears that the road leading from Agamothkur to Thadkamalla Village is an old existing road, which was laid three decades back with a width of 66 feet and that BT road is

formed 33 feet width out of 66 feet. The respondents are only strengthening the existing 33 feet BT road by providing additional layer of WBM (Water Bound Macadam) and BT surface. It is alleged in the counter-affidavit that the respondents are not trying to encroach the land of the petitioner situated in Sy.No.669 of Tadakamalla Village.

If any road is laid by encroaching upon the land of the petitioner in Sy.No.669 of Tadakamalla Village, the petitioner is at liberty to submit a representation to the respondents for payment of compensation and on such representation being made, the respondents shall pay the compensation for widening the road which affect the land of the petitioner. If the respondents intend to lay the road by encroaching the land of the petitioner, the petitioner should not be dispossessed from the land in question, without following due process of law.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

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JUSTICE M.GANGA RAO

*5<sup>th</sup> February, 2018*  
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