

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.35551 of 2013

ORDER:

Petitioner seeks Writ of Mandamus declaring the action of the 3rd respondent in coming to the land of the petitioner and proclaiming to lay the road in part of his land in Sy.Nos.1722, 1723, 1724, 1725, 1597 and 1598 situated at Hasnabad Shivar, Nizamabad Road, Jagtial Mandal, Karimnagar District, when the petitioner already laid road in his own land with his own expenses on the western side of his land making it convenient to the land holders who goes to their lands without initiating any land acquisition proceedings and without paying any compensation to the petitioner as arbitrary, illegal and violative of Articles 14, 19, 21 and 300A of the Constitution of India and consequently direct the respondents not to dispossess the petitioner from any part of his aforesaid land and not to lay any road from the land of the petitioner without initiating Land Acquisition proceedings.

2a) Petitioner's case is that he is the owner of agricultural land admeasuring Ac.9.28 gts. in Sy.Nos.1722, 1723, 1724, 1725, 1597 and 1598 situated at Hasnabad Shivar, Nizamabad Road, Jagtial Mandal, Karimnagar District having purchased the same through registered sale deeds in the year 1999, 2001 2006 and 2012. At the time of purchase, the land is waste land. With all his hard work he made it fertile land and grown up mango grove. The adjacent land owners, who were having lands towards western side, requested him to extend the way to further extent to make it convenient for them to reach their lands. Then, after

bringing the said fact to the notice of the then Tahsildar, Jagtial Mandal, petitioner with his own expenses laid road in his land towards western side starting from the main road to the maximum extent possible and since then the petitioner and his neighbouring owners are using the same to go to their agricultural lands.

b) The petitioner's further case is that 3rd respondent along with his staff came to his land on 25.11.2013 and informed that they are going to lay road in a part of his mango grove in spite of protest made by the petitioner. The petitioner contends that the proposed action of the 3rd respondent without resorting to the land acquisition proceedings and without paying compensation is highly objectionable and illegal.

Hence the present writ petition.

3) Learned Government Pleader for Revenue took notice and filed counter *inter alia* contending that the averments in the writ petition are false. The National Highway 63 from Jagtial to Nizamabad is passing in between the petitioner's land in Sy.Nos.1597-1598 and 1724. The Hadhi Rastha as per village map, is existing on the northern side of Sy.No.1598 and south side to the land in Sy.No.1723. It is their further case there exists way to the agricultural lands on the western side of Sy.Nos.1598 and 1723. While so, the petitioner and his father have encroached the Hadhi Rastha and developed mango tope unauthorizedly. It is false to say that on the request of existing land holders the writ petitioner has extended the way to further extent for their convenience. The petitioner has encroached the existing Hadhi Rastha by occupying the Government

land illegally and thereby raising mango tope in it, causing loss to the Government and obstruction to the land holders passing through it. The Village Revenue Officer, Husnabad; Mandal Revenue Inspector, Jagtial and Mandal Surveyor, Jagtial have jointly conducted inspection of the existing Hadhi Rastha as per map and identified the encroachment of Hadhi Rastha to an extent of 0.11 gts. made by the petitioner and raising mango tope thereon. The writ petitioner has fenced his mango grove so as to conceal the encroachment of existing Hadhi Rastha and raising mango trees in it. The respondents thus prayed to dismiss the writ petition.

4) As can be seen from the location sketch appended to the counter of the respondents, the petitioner claims the blue marked portion as part of his land covered by Sy.Nos.1598 and 1793 and on the request of the adjacent land owners, he laid a path way to enable them to reach their lands and therefore, the 3rd respondent has no right to proclaim to lay a pucca road on the land of the petitioner without resorting to land acquisition proceedings. On the other hand, the contention of the respondents is that they laid Rastha called Hadhi Rastha in Sy.No.1798 and 1598 for public purpose and the petitioner and his father encroached upon the said Rastha and raised mango grove. Therefore, they have no right on the Hadhi Rastha which they encroached. The encroachment became explicit on the survey conducted by the Village Revenue Officer, Husnabad; Mandal Revenue Inspector, Jagtial and Mandal Surveyor, Jagtial. Thus, it is the contention of the respondents that

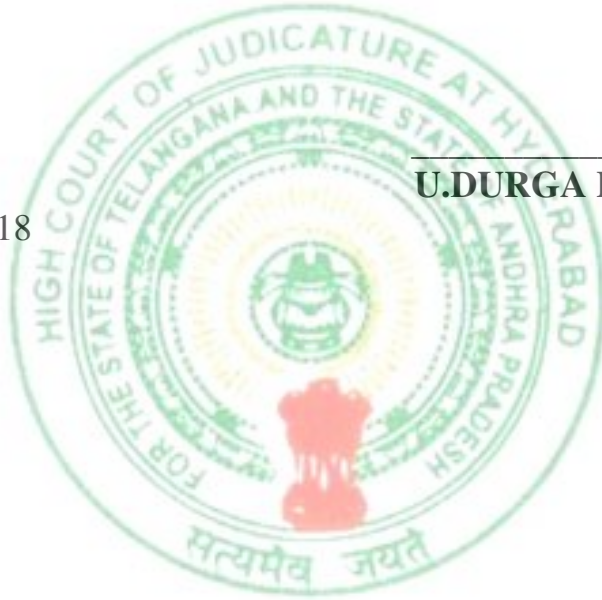
petitioner cannot harp that no Rastha can be laid without taking recourse to land acquisition proceedings.

5) Since the title of the petitioner in the disputed portion is questioned by the respondents, the petitioner can approach the civil court and claim for declaration of his title over the disputed property, if he is so advised, subject to law of limitation.

6) With this observation, this Writ Petition is disposed of. No costs.

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

Date: 27.11.2018
Murthy



U.DURGA PRASAD RAO, J