

THE HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.1533 OF 2015

ORDER:

There is no representation on behalf of the petitioner in spite of the matter listed under the caption 'for dismissal'.

2. The prayer sought in the writ petition is as under:

"For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a Writ, Order or Orders more particularly one in the nature of 'Writ of Mandamus' declaring the action of the respondents in erecting the Gate on the public road in front of petitioner's house property bearing Municipal No.21-3-834 situated at Chelapura, Hyderabad, as ex-facie illegal, arbitrary and highhanded, in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. The basic grievance of the petitioner is that the respondents are attempting to erect a gate on public road in front of the petitioner's house bearing No.21-3-834 situated at Chelapura, Hyderabad.

4. Learned Government Pleader for Home appearing for the respondents 1 to 4 placed on record the written instructions issued by the Sub-Inspector of Police, Charminar Police Station, Hyderabad.

5. A perusal of the said instructions would reveal that the petitioner filed another W.P.No.3417 of 2019 in which she prayed to direct the respondents therein to conduct survey and demarcate her land admeasuring 2051 sq. yards situated in Town Survey No.4, Block 'P', Ward No.230, Municipal No.21-3-834 of Chelapura, Bahadurpura Mandal, Hyderabad forthwith.

On 28.02.2019, this Court in I.A.No.1 of 2019 in the said Writ Petition, directed the Tahsildar, Bahadurpura Mandal, Hyderabad, to undertake survey operations in her presence and the result of the said survey shall be made known to this Court by the next date of hearing.

6. Therefore, as per the directions of this Court, the Tahsildar, Bahadurpura Mandal, conducted the survey on the subject land on 23.03.2019 after giving notice to all concerned including the petitioner and submitted a copy of the report in W.P.No.3417 of 2019. As per the survey of the Tahsildar, Bahadurpura Mandal, the total extent of land in T.S.No.4 is G-Police housing land and there is no road in T.S.No.4. Though the survey was conducted on 23.03.2019 as per the directions of this Court, the petitioner has neither come up with additional affidavit nor filed objections.

7. From the perusal of the report submitted by the Deputy Tahsildar to the Tahsildar, Bahadurpura Mandal, Hyderabad, it is revealed that the total extent of land in T.S.No.4 is 5315 sq. meters. On ground, T.S.No.4 is G-Police housing land and there is no road. However, the sketch plan filed along with the Writ Petition material papers at Page No.30 indicates that on the northern side of the petitioner's house, there is 30 feet wide road. But, as per the report of the Deputy Tahsildar and in the panchanama, there is no road in T.S.No.4 at all.

8. In these circumstances, it is difficult for this Court to adjudicate as to whether any road is existing in T.S.No.4 or 30 feet wide road as shown in the sketch plan filed by the petitioner is being closed by erecting a gate by the respondents. These

disputed questions of fact cannot be decided in a Writ Petition filed under Article 226 of the Constitution of India. Therefore, this Court is of the opinion that the Writ Petition as filed is not maintainable in law and there are no merits in it.

9. The Writ Petition is accordingly closed. However, it is open to the petitioner to file her objections or approach the competent civil Court, if she has any grievance against the survey conducted by the Deputy Tahsildar and the panchanama executed thereafter. Pending miscellaneous petitions, if any, shall stand closed.

Date:14.10.2019

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P. KESHA RAO, J

