

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

MONDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION NO: 3425 OF 2020

Between:

Sayed Mainu @ Mainoddin, S/o Late Chotusab, aged about 55 years, Occ. Agriculture,
R/o H.No. 2-77, Dongli village, Mandal Madnoor, Dist. Kama Reddy.

...PETITIONER

AND

1. The Asst. Executive Engineer R and B section, Bichkunda, District Kama Reddy.
2. The Superintending Engineer, R and B division, Kama Reddy town and District.
3. The Sub- Inspector of Police, P. S. Bichkunda, Dist. Kama reddy.
4. The State of Telangana, Represented by its Principal Secretary, R and B,
Secretariat, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ, order, or direction calling upon the respondents to forbear from constructing a culvert on the eastern border of the agricultural land extending over an area of Ac.1.20 Gts covered by Sy. No. 216/A2 situate at Dongli village, Mandal Madnoor, Dist. Kama Reddy and encroaching into the land belonging to the petitioner without observing the due process of law.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to forbear from interfering with the rights of the petitioners over agricultural land extending an are of Ac.1.20 gts covered by Sy.No.216/A2 situate at Dongli Village, Mandal Madnoor, Dist Kama Reddy by proceeding with the construction of a culvert on the eastern border of the agricultural land belonging to the petitioner, pending disposal of the above Writ Petition.

Counsel for the Petitioner: SRI PAIDI KRISHNA REDDY

Counsel for Respondent Nos.1, 2 & 4 : GP FOR ROADS BUILDINGS

Counsel for Respondent No.3 : GP FOR HOME

The Court made the following ORDER

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.3425 of 2020

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking the following relief:

"to issue a writ of Mandamus or any other appropriate writ, order or direction calling upon the respondents to forbear from constructing a culvert on the eastern border of the agricultural land extending over an area of Ac.1.20 Guntas covered by Sy.No.216/A2 situate at Dongli Village, Mandal Madnoor, Karna Reddy District and encroaching into the land belonging to the petitioner without observing the due process of law."

2. Heard learned counsel appearing for the parties.
3. Learned Assistant Government Pleader for Roads and Buildings, on instructions, produced written instructions, wherein it is stated thus:

"The proposal to construct a culvert at the above mentioned location is technically based on site condition only and not on any political clout. During monsoons the runoff water will be stagnated at right side of the road near junction and it has been a longstanding problem which further deteriorates the existing road condition. Several oral requests from the local residents have been received to solve the stagnation problem. Considering the facts that culvert is included at the junction to divert the water to the other side of the road leading to the next Cross Drainage work. The petitioner and his sister with Sy.No.216/A3/2A2 have been stopping the work since last one year. On behalf of (R&B) Department I (AEE Bichkunda) and Dy.Executive Engineer, (R&B) Sub Division, Bichkunda have made several attempts in convincing the petitioner and his sister and explained the facts and requested to cooperate in completion of the work. They have been assured of being provided with an eastern drain to divert the water to the

next Culvert by which there will be no chance of submergence of the petitioners land.

After trying to convince the petitioner and his sister we tried to restart the work but due to the nuisance and verbal abuse made by the petitioner and his sister at the working site the work is again stopped immediately and no further work has been taken up.

The Right of way of Bichkunda Dongli road from Km 0/0-16/4 is 33 ft. i.e., 10.00 metres from the centre of the road on either sides counting to a total of 66 ft i.e., 20.00 metres. The Culvert which is to be constructed is for a length of 12.50 metres and falls inside 20.00 metres road boundary leaving an additional 3.75 metre on both sides of the road i.e., approximately 12 ft clear width from the beside field. Thus there is no chance of encroaching into the land of Sri Sayed Mainu @ Mainoddin S/o Late Chotusab and therefore the issue of Land Acquisition does not arise. The Culvert at Km 16/3 of Bichkunda Dongli road will be constructed within the Right of way of (R&H) Department and there is no case of encroachment as there is an additional 3.75 metre width i.e., 11 ft clearance from the edge of the culvert."

4. It is to be seen that it is not for this Court to hold where culvert should be constructed. It is for the experts to decide the same. The petitioner disputes the written instructions produced by the learned Assistant Government Pleader for Roads and Buildings. These disputed questions of fact cannot be gone into in this Writ Petition.

5. Accordingly, the Writ Petition is dismissing giving liberty to the petitioner to avail alternative remedy, if so advised. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

SD/- CH VENKATESHWAR
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Assistant Executive Rand B section, Bichkunda, District Kama Reddy.
2. The Superintending Engineer, R and B division, Kama Reddy town and District.
3. The Sub- Inspector of Police, P. S. Bichkunda, Dist. Kama reddy.
4. The Principal Secretary, R and B, State of Telangana Secretariat, Hyderabad.
5. Two CCs to GP for Roads & Buildings, High Court for the State of Telangana.
[OUT]
6. Two CCs to GP for **GP FOR HOME**, High Court for the State of Telangana.
[OUT]
7. One CC to Sri Paidi Krishna Reddy, Advocate [OPUC]
8. Two CD Copies

MBC



HIGH COURT

ARR,J

DATED: 02/03/2020



ORDER

WP.No.3425 of 2020

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

11
23/04/2020