

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No. 460 OF 2008

ORDER:

The petitioners in the writ petition seek writ of Mandamus declaring the inaction of the Respondents 1 to 3 in preventing encroachments on the Aamrasha or Haddi Rasha (passage) which is located in between the lands bearing Sy.No. 888 and Sy.No.563 of Medipally Village and Revenue Mandal, Karimnagar District, as illegal, arbitrary and consequently direct the respondent Nos. 1 to 3 to act upon the representation submitted by the petitioners dated 04.10.2007 and to remove the encroachments made on the above passage and provide access to the petitioners and other villagers of Mediapally Village to reach their agricultural lands.

2. The case of the petitioners is that they are absolute owners and possessors of the agricultural lands admeasuring Ac.1.01 gts in Sy.No. 888 situated at

Medipally Village and Revenue Mandal in Karimnagar District and that they have been carrying out agricultural operations in the said land without interference from any person whomsoever.

3. The petitioners further submit that the only way to approach their agricultural lands is Haddi Rasha (Passage) with a width of 11 yards. The said passage is separating the lands located in two Sy.Nos. 888 and Sy.No. 563 situated in two Sy.Nos. 888 and Sy.No. 563 situated at Medipally Village and Revenue Mandal, Karimnagar district. The said Haddi Rastha or Aamrasha (Passage) was a public road from times immemorial and it is also clearly evident that the said passage was formed earlier to 1950 as per village revenue map issued by Department of Survey and Land Records.

4. While so, when the said passage was occupied by the pattadars of land in Sy.No. 563 and their tenants i.e. respondent Nos. 4 to 7, petitioners caused a legal notice

on 03.11.2003 to the Government to take necessary action against the said encroachers to restore the passage for public and common use. Thereafter a representation was made to the 2nd respondent on 26.03.2004 for demarcation of passage leading to Thatipally Village to Mohanrao Village which is also a common passage to village agricultural lands. Accordingly a panchanama was conducted on 23.04.2004 by Deputy Inspector of Survey, Jagityal from which it is evident that pattadars of land in Sy.No. 563 have illegally occupied the Haddi Rasha or Aamrasha (passage) in between the Sy.Nos. 888 and 563/1 which is also a common passage to Thatipally Village to Mohan Rao Village. The pattedars of the land in Sy.No. 563 viz., respondent Nos. 4 to 7 without any lawful right and interest had obstructed the said passage and are still in continuous illegal possession of the same, as a result of which the agricultural operations of the villagers are being obstructed. The petitioners represented to the respondent Nos. 1 to 3 on 25.06.2004, 14.03.2005 and on 05.10.2007

to take action against the illegal occupiers of the land but there is no action initiated against the illegal occupiers. The petitioners approached the Court by filing the present writ petition.

5. Counter affidavit has been filed by the respondent Nos. 1 to 3. On 14.08.2009 an additional counter affidavit was filed in the year 2012 wherein at para No.6 and 7 it is averred that the petitioners made representation on 04.10.2007, marking copy to respondent Nos. 4 to 7 stating that the respondents have encroached the said Haddirastha and requested to take steps. Immediately, the respondents issued notice under Section 7 of Andhra Pradesh Land Encroachment Act on 20.02.2008 and evicted the encroachers after conducting a panchanama by following the due process of law on 29.02.2008. Thus, the grievance of the petitioners have been redressed by these respondents in the year 2008 itself.

6. The respondents denied the contention of the petitioners that the respondents are not taking action against the illegal encroachers and the encroachments made by the unofficial respondent Nos. 4 to 7 and others have been evicted and provided a passage of D.48/1 with a width of 7 to 8 sq. yards and the villagers are using the same road and there is no obstruction to the petitioners or any of the villagers and that there is no obstruction of the passage known as Haddi Rastha. The respondents further submit that whenever complaints are received not only from the petitioners but also from other villagers, the respondents take immediate action against all the encroachers and prayed to dismiss the writ petition.

7. Haddi Rasha is a passage between the lands in Sy.No. 888 and Sy.No. 563 situated at Medipally Village and Revenue Mandal and also the fact of issuance of legal notice dated 03.11.2003 by the petitioners herein stating that respondent Nos. 4 to 7 had encroached the Haddi

Rasha and requested to take steps and restore the passage. It is also contended that in response to the said representation of the petitioners the office deputed Mandal Surveyor for fixing the boundary stones to Haddirastha which is passing between Sy.Nos. 888, 889 and 563 through this office Memo No.B/532/2003, dated 28.11.2003. It is further submitted in the counter that the Surveyor and Deputy Inspector of Survey have conducted survey on 23.04.2004 and fixed the boundary stones to the Haddirastha and to that effect a panchanama was recorded on 26.08.2004. The counter affidavit also states that in response to the petitioner representation dated 04.10.2007 the third respondent herein also issued notice under Section 7 of Andhra Pradesh land Encroachment Act on 20.02.2008 and evicted the encroachers after conducting a panchanama by following the due process of law on 29.02.2008 and that the grievance of the petitioners have been redressed by these respondents in the year 2008 itself. It is also contended in

the counter affidavit that not only the encroachers were removed but also the respondents had provided a passage of D.48/1 with a width of 7 to 8 sq. yards and the villagers are using the same road and there is no obstruction to the petitioners or any of the villagers. The additional counter affidavit also has been filed by the respondents 1 to 3 which not only reiterated the contentions referred to above but also stated that a notice under Section 7 of Andhra Pradesh land Encroachment Act on 20.02.2008 was issued on 20.02.2008 that is already addressed.

8. The third respondent submits that he has personally inspected Haddirastha on 18.06.2010 along with Dy. Surveyor and Mandal Revenue Inspector and action was initiated against the pattedars who had encroached the Haddirastha i.e. 1, Marripelli Gangaram S/o. Gangaram, 2. Gopu Ramulu, S/o. Chinna Lingaiah, 3. Surender Rao, S/o. Korutla, 4. Jilla Chinna Narsaiah, S/o. Narsaiah, 5. Jilla Pedda Narsaiah, S/o. Narsaiah, 6. Poosala Nava

Jeevan Rao, S/o. Rukmandar Rao, 7. Poosala Prathap Rao, S/o. Rukmandar Rao and further eviction notice was issued on 18.06.2010. The encroachers were evicted duly fixing the boundary stones in the Haddirastha with a clear warning to them not to encroach the Haddirashta in future.

9. Heard learned counsel for petitioners. Heard learned Assistant Government Pleader for Revenue. There is no representation on behalf of the respondent Nos. 2 to 7.

10. In view off the clear admission in the counter affidavit filed by the respondent Nos. 1 to 3 both in the year 2008 and also in the year 2012 the fact of existence of encroachment in the passage and also initiation of appropriate action against the encroachers invoking Section 7 off the Andhra Pradesh Land Encroachment Act on 20.02.2008 and also in the year 2010 and further fixing the boundary stones in the Haddirastha. It is very clear that the grievance off the petitioner has been addressed

and the respondents 1 to 3 are directed to ensure that there is no difficulty for the petitioners or the villagers in using the said Haddirashta i.e. laid the roads by R & B nearby Sy.No. 889 and 888 by south side and passing through Sy.No. 563 and also to ensure that the passage of D.48/1 with a width of 7 to 8 sq.yards provided by the petitioners by the side of the canal is also put to use by the petitioners and the villagers without any hindrance by the encroachers.

11. Accordingly the writ petition is dismissed.

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

MRS JUSTICE SUREPALLI NANDA

April 12, 2022

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