

Andhra Pradesh High Court - Amravati

Smt. Avula Ramalakshamma, vs The State Of Andhra Pradesh, Rep. ... on 11 May, 2023

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W.P.No.14393 of 2016  
VS, J

HONOURABLE SMT. JUSTICE V. SUJATHA

WRIT PETITION No.14393 of 2016

ORDER:

The present writ petition came to be filed under Article 226 of the Constitution of India seeking the following relief:

"...to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent in digging the drainage canal in the house site of the petitioner bearing H.No.710, Sy.No.502/A2 in Ramnagar Gate Center, Podalakur Panchayat, SPSR Nellore District, as illegal, arbitrary and consequently direct the respondents to remove the drainage canal dug in the house site of the petitioner bearing H.No.710, Sy.No.502/A2 in Ramnagar Gate Center, Podalakur Panchayat, SPSR Nellore District, to grant such other relief or reliefs as his Hon'ble Court deems fit and proper in circumstances of the case..."

2. The brief facts of the case are that the husband of the petitioner had purchased a house site admeasuring about 10 Ankanams in Sy.No.502/A2 in Ramnagar Gate Center, Podalakur Panchayat, SPSR Nellore District and has constructed a house with asbestos sheets in a portion of the said plot and have been eking out their livelihood by running a small tea stall and also doing carpentry work.

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3. The petitioner's husband has executed a Registered Settlement Deed bearing document No.211/2013, dated 05.02.2013 in favour of the petitioner. The 5th respondent has been assessing the property with Assessment No.1679 for property tax for the last 17 years and the petitioner has been paying the property tax.

4. While the matter stood thus, the 3rd respondent, in collusion with some of the neighbors of the petitioner, dug some portion of the subject property under the guise of constructing a drainage canal without following due process of law. When the petitioner had questioned the highhanded attitude of the 3rd respondent in digging the drainage canal in the petitioner's land, the petitioner has received an evasive reply stating that the petitioner's property is abutting the Roads and Buildings Department land. Thereafter, the petitioner has submitted a representation dated 14.03.2016 to the 4th respondent-District Collector herein, questioning the illegal and arbitrary attitude of the

respondent Nos.3 and 5 in illegally digging drainage canal in the house site of the petitioner.

5. Heard both the learned counsel for the petitioner and as well as the learned Government Pleader for Roads and Buildings.

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6. A counter affidavit has been filed by the 3rd respondent herein, wherein it is stated that in pursuance of the representation made by the petitioner, the District Collector has forwarded the same to the office of the Assistant Engineer (R&B), thorough proper channel vide endorsement dated 30.03.2016. Thereafter, the Assistant Engineer (R&B), Podalakur-1, SPSR Nellore has enquired the matter and submitted a report to the Tahsildar, Podalakur Mandal, Podalakur on 31.03.2016, instructing the Tahsildar to depute the Mandal Surveyor and fix up the boundaries of Roads and Building site in the Sy.No.502/A2 in Ramnagar Gate Center, Podalakur Panchayat, SPSR Nellore District and furnish a sketch and FMBs for the purpose of taking necessary steps in the subject matter.

7. It is further stated that as and when the revenue authorities fix up the boundaries of the above said site, as per the report of the Tahsildar/Mandal Surveyor of the Podalakur Mandal, necessary action will be taken in accordance with law.

8. Today, when the matter came up for hearing, the learned Government Pleader for Roads & Buildings has also stated that even as on today, no action has been conducted in W.P.No.14393 of 2016 VS,J pursuance of the said letter dated 31.03.2016 addressed by the Assistant Engineer (R&B) to the Tahsildar.

9. In view of the same, instead of going into the merits of the case, this Court feels it appropriate to dispose of this writ petition with the following directions:

i. The respondents, with the assistance of the Revenue department, shall conduct a survey to demarcate the road margins at H.No.710, Sy.No.502/A2 in Ramnagar Gate Center, Podalakur Panchayat, SPSR Nellore District. This survey shall be conducted in the presence of the petitioner or her representatives. ii. For the purpose of enabling these persons to be present at the time of the survey, notice shall be given to the petitioner.

iii. After the survey is conducted, if it is found, that the petitioner has encroached the road margin, it would be open to the respondents to take appropriate action in accordance with law. This survey shall be W.P.No.14393 of 2016 VS,J completed within a period of eight (8) weeks from the date of receipt of a copy of this order. iv. Till such survey is completed, the respondents shall not interfere with the petitioner's possession over the subject land, without following due process of law.

10. Accordingly, with the above directions, this writ petition is disposed of. There shall be no order as to costs.

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

\_\_\_\_\_ V. SUJATHA, J Date: 11.05.2023.

GSS W.P.No.14393 of 2016 VS,J HONOURABLE SMT. JUSTICE V. SUJATHA W.P. No.14393 of 2016 Date: 11.05.2023 GSS