

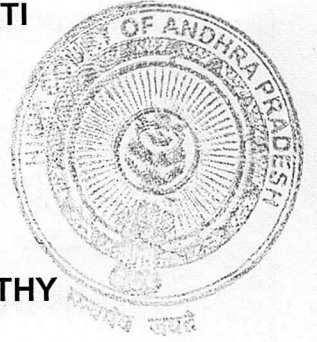
IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY,
TWO THOUSAND AND TWENTY ONE

: PRESENT:

THE HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO: 13586 OF 2021



Between:

Dr. T.C. Ramalinga Reddy, S/o T.C. Pulla Reddy, aged about 58 years, R/o Door No. 13-3-380, Venugopal Nagar, Shanti Nursing Home, Near R.T.C. Bus Stand, Anantapuram.

...Petitioner

AND

1. State of Andhra Pradesh, represented by Principal Secretary, Revenue Department, A.P. Secretariat, Velagapudi, Guntur District.
2. District Collector, Anantapur District.
3. Joint Collector, Anantapur District.
4. Tahsildar, Anantapur Mandal, Anantapur District.
5. National Highway Authority of India (NHAI), represented by its Project Director, Ministry of Road, Transport and Highways, Government of India, P.I.U. 6-4-239, 3rd Cross, Maruti Nagar, Anantapuram 515 004.

...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, Order or direction more particularly one in the nature of WRIT OF MANDAMUS by declaring the highhanded action of the 5th Respondent in laying a road and planting trees in a part of land of the Petitioner admeasuring 51 feet width x 528 feet length equivalent to Ac.0-61 cents out of an extent of Ac.4-09 cents, situated in Survey No.296-2B (old Survey No.243-2A) and Ac.1-70 cents in Survey No.296-1B (old Survey No.243-1A) of Kakkalapalli Village, Anantapur Mandal, Anantapur District and also demolishing a portion of the Petitioner's compound wall, without following due process of law and contrary to the provisions of National Highway Act 1956, as illegal, arbitrary, unjust, without jurisdiction and contrary to the rights guaranteed under Article 300A of Constitution of India and direct the 5th Respondent to pay Rs.2.00 lakhs to the Petitioner towards compensation for the damage caused.

IA NO: 1 OF 2021

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 5th Respondent not to lay the road by dispossessing the Petitioner from an extent of 51 feet width x 528 feet length admeasuring about Ac.0-61 feet out of an extent of Ac.4-09 cents situated in Survey No.296-2B (old Survey No.243-2A) and Ac.1-70 cents in Survey No.296-1B (old Survey No.243-1A) of Kakkalapalli Village, Anantapur Mandal, Anantapur District belonging to the Petitioner, pending disposal of WP 13586 of 2021, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri M R S Srinivas, Advocate for the Petitioner, GP for Revenue for the Respondent No.1 to 4 and of Standing Counsel for NHAI for Respondent No.5 the Court made the following.

ORDER

"The real dispute between the petitioner and Respondent No.5/National Highway Authority of India (NHAI) is regarding encroachment of land by either of them on ground.

The petitioner contending that Respondent No.5/NHAI encroached his land, whereas, Respondent No.5 contending that, highways authority encroached the

land of this petitioner in an Ac.0-61 cents out of an extent of Ac.4-09 cents in Sy.No.296-2B (old Survey No.243-2A) and Ac.1-70 cents in Survey No.296-1B (old Survey No.243-1A) of Kakkalipalli Village, Anantapur Mandal, Anantapur District.

Therefore, such dispute cannot be decided by this Court, since it is a disputed question of fact. However, to put a quietus to the dispute, I find it appropriate to appoint an Advocate Commissioner to identify the encroachment by either the petitioner or Respondent No.5/NHAI, taking measurements on ground with reference to Field Measurement Book with the assistance of Mandal Surveyor, Anantapur.

Sri P. Nagendra Babu, Advocate is appointed as an Advocate Commissioner to identify the actual encroachment made by either of the parties i.e. petitioner or Respondent No.5/NHAI on ground, based on Field Measurement Book with the assistance of Mandal Surveyor, Anantapur and submit a report to this Court along with rough sketch prepared by the Mandal Surveyor, identifying the encroachments, so as to take further action in the matter.

Advocate Commissioner fees is fixed at Rs.10,000/- and traveling and other incidental expenses are payable by the petitioner.

The Advocate Commissioner is requested to issue notice before execution of warrant to both petitioner and Respondent No.5/NHAI and obtain assistance of Mandal Surveyor through Respondent No.4/Tahsildar, Anantapuram Mandal, in advance; and submit a report to the Registry positively within four weeks.

Registry is directed to supply a copy of this order to both sides.

Till then, both parties are directed to maintain status quo as on today.

Post after four weeks."

//TRUE COPY//

Sd/-M.SRINIVAS
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary, Revenue Department, A.P. Secretariat, State of Andhra Pradesh, Velagapudi, Guntur District.
2. District Collector, Anantapur District.
3. Joint Collector, Anantapur District.
4. Tahsildar, Anantapur Mandal, Anantapur District.
5. The Project Director, National Highway Authority of India (NHAI), Ministry of Road, Transport and Highways, Government of India, P.I.U. 6-4-239, 3rd Cross, Maruti Nagar, Anantapuram 515 004 (1 to 5 by RPAD)
6. One CC to Sri M R S Srinivas, Advocate [OPUC]
7. Two CCs to GP for Revenue, High Court of Andhra Pradesh.[OUT]
8. One CC to Sri P. Nagendra Babu, Advocate Commissioner [OUT]
9. One spare copy

**HIGH COURT
MSMJ**

DATED: 15/07/2021

POST AFTER FOUR WEEKS.

ORDER

WP.No.13586 of 2021

INTERIM DIRECTION

