

THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.9757 OF 2011

ORDER:-

This Writ Petition came to be filed under Article 226 of the Constitution of India seeking the following relief:-

***“.... to issue writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in laying road in respect of the land of the petitioner in Survey No.587-2 situated in Gooty, Gooty Mandal, Ananthapur District is illegal, arbitrary and unconstitutional, consequently direct the respondents to follow the due process of law for laying the road in respect of the land of the petitioner in Survey No.587-2 situated in Gooty, Gooty Mandal, Ananthapur District and pass such order*”**

2. On 23.12.2022, there was no representation on behalf of the petitioner. Hence, the matter was directed to be listed today under the caption “For dismissal.” Even today also, there is no representation on behalf of the petitioner.

3. Heard the learned Government Pleader for Panchayat Raj appearing for the respondents.

4. The averments made in the affidavit filed in support of the writ petition show that the petitioner claims to be the owner of the property situated in Sy.No.587-2 admeasuring

Ac.1-38 cents out of Ac.13-10 cents situated in Gooty, Gooty Mandal, Ananthapur District. The said property was said to have been purchased by the father of the petitioner under a registered sale deed, dated 27.05.1981, when the petitioner was a minor. After attaining majority, the petitioner claims to be in possession and enjoyment of the property and he had also constructed shops in a portion of the property by obtaining permission from the Gram Panchayat. It is said that without following the due process of law, the said property was taken over for public purpose i.e., formation of road under Grameena Upadhi Padakam by removing the slabs which were erected around the land. It is further stated that the respondents have no right to lay any road in the land belonging to the petitioner, as earlier there was no road existing. Questioning the action of the respondents in taking steps for laying a road through the land of the petitioner, the present writ petition came to be filed.

5. By an order, dated 05.08.2011, this Court, while issuing Rule nisi, directed the respondents not to lay road on the land of the petitioner in Survey No.587-2 situated in Gooty, Gooty Mandal, Ananthapur District, except by following the due process of law.

6. A counter along with vacate stay application was filed in the year 2011. In para No.3 of the counter-affidavit itself, it is stated as under:-

“In reply to Para No.4 of the affidavit, it is submitted that the Formation of road was done in the existing public utilizing old Road rastha which was shown by the land owners in the sale deeds 1) 328 of 1951 dt.19.03.1951 to 1355 dt.27.07.2005 with boundaries since 19-03-1951. The parents of petitioner P.Narayana (72 years) and Smt. Nagamma (63 years) were sold the land extent 2.00 Acres in S.No.587-2 vide sale deed No.1355 dated:27-7-2005 in which it is recorded that in Sri. P.Nagaraju’s Land along with the southern boundary 20 feet wide rastha (From NH7 (NH44) Anantapur road to this sale land) is existing in East West direction for transportation purpose vide line 16 and 17 of page 3/8 of sale deed and also in the statement Smt. P.Rani W/o.Nagaraju (the present petitioner) has signed as witness. The above rastha is for the transportation of bullock carts and rastha to cattle. In sale deed No.328 of 1951 dt.19.03.1951 in Sy.No.587 along the Southern boundary in between the two lands of different owners with the written condition that nobody should object for rastha, which property belongs to Gram Panchayat, Gooty.”

In the said counter, it is also mentioned that the petitioner had objected through a notice on 22.03.2011 for laying a road and as such, the Mandal Engineering Officer, Gooty had stopped the work in the subject land. It is said that no objection was raised by the petitioner at the time of starting of the work or during execution of the work i.e., from the month of May, 2010 to

February, 2011. Later on, an objection came to be raised by the petitioner at a belated stage. In other words, the entire counter appears to be that the Mandal Engineering Officer has executed the road work on the old rasta, which was already in use by the public, as stated in the sale deed, for transportation of bullock carts and rasta to cattle, which property belongs to Gram Panchayat, Gooty.

7. The question now arises is:-

“Whether the subject land in which the road is laid belongs to the petitioner or Gram Panchayat?”

8. **POINT:-**

In the material papers filed along with the writ petition, no documents have been filed by the petitioner as to the ownership of the land by the petitioner except some legal notices issued and the communications made. Neither any sale deed nor any document is filed to substantiate the plea of the petitioner. Be that as it may, in view of the interim order, dated 05.08.2011, passed by this Court and in view of the averments made in the counter that no road is laid through the land of the petitioner, the District Collector, Ananthapur District, Ananthapur is directed to conduct survey of the subject land in the presence of the petitioner and the neighbours, demarcate

the land of the petitioner and after clear identification of the land, lay the road in the land of the Gram Panchayat after following the due procedure established under law. If it is found that the road was laid through the land of the petitioner, compensation, in accordance with the provisions of law, shall be paid to him. The entire exercise should be completed within a period of three (3) months from the date of receipt of a copy of this order. Till the survey, as ordered, is complete, the interim order, dated 05.08.2011, passed by this Court shall continue.

9. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

10. Learned Government Pleader for Panchayat Raj shall send a copy of this order to the District Collector, Ananthapur District, Ananthapur forthwith.

Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE C.PRAVEEN KUMAR

Date : 30.12.2022

Note:-

Furnish C.C. today.

B/O

AMD

THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.9757 OF 2011

Date : 30.12.2022

AMD