

W.P. No.7885/2011**30/3/2012:**

Shri Vivek Rusia, learned counsel for the petitioner.

Shri Ishant Mehta, learned counsel for respondent No.1.

Shri Ashish Trivedi, learned counsel for respondent No.2.

Petitioner claims to be the owner of a house built in Plot No.73, Ranital Chowk, Pandit Bhawani Prasad Ward, Jabalpur. It is a case of the petitioner that certain contract was awarded by respondent No.1 to respondent No.2 for construction of 25 Gantry Gate. One such a gate has been constructed in the premises in question where the petitioner's house is situated. Inter alia contending that one of the pillars of the gate is just in front of the main gate of the house of the petitioner and is creating obstruction in entering into the house, this petition is filed, seeking a direction for removal of the gate or pillars from the vicinity of petitioner's gate.

By filing various photographs Annexure P/2, P/3 and P/4 petitioner has tried to emphasize that the gate has been constructed in such a manner that the pillars have been put in a manner that the entry to petitioner's premises is being adversely effected.

Respondents No.1 and 2 have filed the reply. From the reading of reply filed by the respondents it transpires that the gantry gate in question is not constructed in front of petitioner's house nor is the pillar implanted in front of main gate of the petitioner. It is on a side road where the said gate is constructed by the petitioner. Photographs filed by respondents No.1 and 2 indicates that there is no obstruction to the main gate or entrance to the petitioner's house. That apart, it is pointed out by the respondents that after the pillars were implanted in the area belonging to the Municipal Corporation and in that point of time with a view to somehow get the pillar removed petitioner has constructed a side gate and photographs have been taken in a manner to show that there is obstruction in the petitioner's entry. Accordingly contending that petitioner has come out with a false claim, respondents have submitted that even in the petitioner's own premises certain hoardings have been erected by misusing the premises of the Corporation, accordingly, on these counts respondents have sought for dismissal of the writ petition.

On going through the facts and circumstances of the case, particularly the photographs it is clear that the gantry gate and the pillars alleged are not in front of the main gate of the petitioner's house but it is constructed on the road side where a side entrance is provided and from the affidavit filed by respondents No.1 and 2 it is clear that a side gate has been constructed by the petitioner after

dismantlement of a wall and by making certain modification, in fact this construction by the petitioner seems to be after the pillars were erected.

In view of the aforesaid facts and circumstances of the case, this Court does not find any ground to interfere in the matter.

During the course of hearing of writ petition, Shri Vivek Rusia tried to emphasize that Municipal Corporation is now fixing the gantry gates with one pillar, he would have no objection if the gantry gate is removed and implanted again with a single pillar. If petitioner has any objection he may represent to the Municipal Corporation and it would be for the Municipal Corporation to consider and decide the same.

For the present, on the grounds raised, finding no case for interference, this petition is dismissed.

(Rajendra Menon)
Judge