

**(2003) 03 AP CK 0002**

**In the Andhra Pradesh High Court**

**Case No : Writ Petition No. 29861 of 1997**

Welfare Association

APPELLANT

Vs

Government of Andhra Pradesh, Municipal Administration and  
Others

RESPONDENT

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**Date of Decision : 06-03-2003**

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation : (2003) 5 ALT 800**

**Hon'ble Judges : Ghulam Mohammed, J**

**Bench : Single Bench**

**Advocate :** Mohd. Abdul Quadri, for the Appellant; Govt. Pleader for Respondent No. 1 and Ghanta Rama Rao, SC for M.C.H. for Respondent Nos. 2 to 4, for the Respondent

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## **Judgement**

Ghulam Mohammed, J.—This writ petition is filed to issue a Writ of Mandamus directing the respondents herein or their subordinates or staff not to lay metal road or any type of road in Sy.No. 46 and 5 of Gudimalkapur locality near Mehdiapatnam, Hyderabad, being the area of Hindu Graveyard.

2. The petitioner is a Welfare Association, represented by its General Secretary Sri V. Pavan Kumar. He is filing this writ petition on behalf of the Association, ventilating the grievance stating that the said Association was registered vide registration No. 219/68, Gudimalkapur, Hyderabad. It is averred that there is a Hindu Graveyard in the vicinity of Gudimalkapur area, Golconda Revenue Mandal, Hyderabad, since last 200 years. There are plenty of Hindu graveyards in the said locality and apart from that there is a Hindu temple. The people are visiting daily for prayers and darshan. The Welfare Association is managing and maintaining the graveyard and Hanuman Temple. It is submitted that there is no road or sub-road/passage for common people or common use by general public. Recently the authorities of Municipal Corporation of Hyderabad are trying to lay a metal road in the graveyard so as to create a passage or way to the passers

through the graveyard without intimation to the local people or welfare association. The petitioner-Association submitted several representations to the respondents 2 to 4 on 27-10-1997 and 3-11-1997 for stopping the laying of metal road in the graveyard, but no action has been taken. Hence, this writ petition.

3. The learned counsel for the petitioner submits that if the laying of the metal road in the graveyard is not stopped, it will become common passage for common people; the local people in general, and the Hindu community in particular shall suffer great loss.

4. A counter-affidavit is filed by the Executive Engineer, Municipal Corporation of Hyderabad, stating that a mini graveyard is existing in Mehdiapatnam-Gudimalkapur area with a few graves in it. Previously, people used it as a burial ground and during the last two decades the surrounding areas witnessed huge development and a number of new colonies have come up around it. The population in that area has abnormally increased, so much so, the existing graveyard is not sufficient to cater the needs of the public as it is very small. People are also not coming to the graveyard either for burial or cremation, keeping in view all residential houses surrounding the graveyard. It is further submitted that, by the side of the graveyard and beyond, a new locality called Hill Colony has come up recently and there is no road to the said colony and its residents are using the old existing passage of the graveyard as a passage for reaching their houses in the said colony and the people residing in that colony represented to the Municipal Corporation of Hyderabad to lay a road on the passage to subserve their interest. Apart from that, recently a college by name Lal Bahadur Junior College was established in the said colony and the students as well as the staff of the said college are using the said passage as a road and keeping in view the above difficulties, a road has been sanctioned to lay on the passage and a sum of Rs. 71,000/- were sanctioned for the said purpose and that a contractor was fixed to lay the road on the existing passage and he started the work to lay a road. It is further submitted that one C. Rajan and another have filed O.S.No. 4212 of 1997 on the file of the VI Assistant Judge, City Civil Court, Hyderabad, seeking the same relief as sought for in this writ petition and petitioner herein who claims to be the Welfare Association cannot be permitted to file this writ petition challenging the same.

According to the respondents, the petitioner wants to get a remedy in case the said suit fails in the said Court, and therefore, they cannot be permitted to approach the civil Court and at the same time file a writ petition under Article 226 of the Constitution of India.

5. Heard the learned counsel on either side.

6. Since it is stated in the counter that the relief sought in the said suit is identical, this writ petition has to be dismissed on the ground that the petitioner cannot be permitted to initiate parallel proceedings while invoking the

extraordinary jurisdiction of this court under Article 226 of the Constitution. However, it is stated that the petitioner has already filed a representation to the Municipal Commissioner and that the same may be disposed of.

7. In the circumstances, the 2nd respondent-Commissioner is directed to examine the representation of the petitioner, consider the feasibility and the requirement and take into account the judgment rendered in the civil suit, if any, on this aspect, and pass appropriate orders, if not already passed, in accordance with law.

8. Accordingly, the writ petition is disposed of. No order as to costs.