

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR
WRIT PETITION Nos. 17638, 18398 and 28487 of 2012

COMMON ORDER:

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W.P.Nos.17638 and 28487 of 2012 came to be filed seeking a direction to respondent Nos.1 and 2 to expedite the action to regularize the possession of the petitioner therein in respect of land admeasuring Ac.5.00 situated in Sy.No.255 of Jawaharnagar Village, Shameerpet Mandal, Ranga Reddy District; and consequently to direct respondent No.3 to act upon the complaint lodged by the petitioner dated 26.05.2012.

W.P.No.18398 of 2012 came to be filed by the petitioner, who is respondent No.4 in W.P.Nos.17638 and 28487 of 2012, seeking issuance of writ of mandamus declaring the action of the respondents in trying to dispossess the petitioner from the land admeasuring Ac.5.00 gts., situated in Sy.No.255 with standing crop and structures existing thereon, at Jawaharnagar Village, Shameerpet Mandal, Ranga Reddy District, as illegal, arbitrary and violative of articles 14, 19 and 21 of the Constitution of India.

Since all the writ petitions are inter-connected the same are being disposed of by this common order.

The factual matrix of the case is as under:

The petitioner in Writ Petition Nos.17638 and 28487 of 2012 claims to have purchased land admeasuring Ac.5.00 gts., in Sy.No.255 of Jawaharnagar Village, Shameerpet Mandal, Ranga Reddy District (hereinafter referred to as schedule land) from respondent No.4 (petitioner in W.P.No.18398 of 2012) and his father Sailu for a sale consideration of Rs.4,14,000/-. It is alleged that after receiving the total sale consideration, the possession was delivered in the year 1999 and also executed an agreement of sale. Thereafter, the petitioner is alleged to have got electricity connection from the competent authorities to her educational institutions, orphanage home, tailoring institute and other allied institutions. The petitioner is said to have approached respondent Nos.1 and 2 seeking regularization of her possession and the same are pending for

consideration. Respondent No.1 issued instructions to respondent No.2 to cause an enquiry and send a report. Pursuant to the said instructions, Mandal Revenue Inspector and Mandal Surveyor conducted enquiry. Respondent No.2 vide his letter No.B/491/2001, dated 30.06.2001 submitted a report to respondent No.1 stating that the school has been functioning in the name and style of Ambedkarnagar Residential School from Nursery to VI Class with eight class rooms and staff rooms. It is also reported that the strength of each class is about 35 to 40 students with seven teachers. While things stood thus on 26.05.2012 at about 12.30 p.m. respondent No.4 (petitioner in W.P.No.18398 of 2012) along with musclemen and anti-social elements are alleged to have entered into the school premises; removed the furniture, thrown them out and started laying fencing, thereby blocking the entry to the institutions. Immediately, the petitioner is said to have lodged a complaint before respondent No.3. Hence, W.P.No. 17638 of 2012 is filed and later W.P.No.28487 of 2012 is filed seeking to expedite the process of regularizing the possession of the petitioner in respect of land admeasuring Ac.5.00 situated in Sy.No.255 of Jawaharnagar Village, Shameerpet Mandal, Ranga Reddy District.

The averments in the affidavit filed in support of W.P.No.18398 of 2012 would show that the father of the petitioner in the said writ petition was in actual possession of the schedule land. The schedule property forms part and parcel of land admeasuring Ac.5,977.03 gts., of land originally acquired by British Army in or about 1941 for the Anti Tank Exercises and remained with the Military Estate Officer, Secunderabad. In the year 1951, the said Military Estate Officer is alleged to have handed over the said land to the Labour Department of Government of Hyderabad for colonization and rehabilitation of Ex.Army Personnel, who were displaced on account of disbandment of Hyderabad Army Ex-India Estate Personnel. The Government of Hyderabad issued a notification G.O.Ms.No.25, dated 23.10.1952, whereunder the said land was assigned to the Labour Department by constituting a new village called as Jawaharnagar by taking certain areas from the ten villages of erstwhile Medchal Taluk to rehabilitate Ex.Servicemen personnel. It is alleged that the father of the petitioner, during his life time, worked in defence services as such, he was allotted the schedule property in the year 1974. During his life time, the father of the petitioner is alleged to have constructed two rooms in the schedule

property and also fenced the same with barbed wire. He also dug a borewell and cultivating the same by raising paddy crop. The father of the petitioner is alleged to have paid land revenue in respect of the schedule property and the revenue authorities also issued pattadar pass book in his favour. It is stated that on 20.12.1999 the revenue officials came to the schedule property and damaged the existing borewell, broken the fencing kadies and damaged the standing crop, as such the father of the petitioner filed O.S.No.146 of 1999 on the file of the Junior Civil Judge, Medchal, against the revenue officials, seeking permanent injunction. The Court granted ad-interim temporary injunction against the revenue officials. During pendency of the said suit, the father of the petitioner expired on 06.05.2001. Subsequently, in the year 2002, for the purpose of providing shelter to the farm labour, the petitioner obtained permission from the Gram Panchayat, Jawaharnagar, for construction of a room. The suit filed by the father of the petitioner was dismissed for default on 20.07.2005. After verification of the suit proceedings in O.S.No.146 of 1999, the petitioner is alleged to have sought for return of the original documents which were filed by his father. Then he is alleged to have come to know that M/s. P.Chenchu Ramaiah and Uppala Anil Kumar, advocates appeared as counsels of his father M.Sailu, filed an application and took original documents by impersonating respondent No.1 (husband of petitioner in W.P.Nos.17638 and 28487 of 2012) as M.Sailu and played fraud on the court. On 25.06.2011, respondent Nos.1 and 2 are alleged to have illegally trespassed into the schedule land and tried to dispossess the petitioner from the schedule property. When the petitioner resisted the same, they are alleged to have abused the petitioner in filthy language and threatened him with dire consequences. Immediately, the petitioner lodged a private complaint, which was referred to police, Alwal, and a case in Crime No.434 of 2011 came to be registered for the offences punishable under Sections 419, 420, 423, 463, 471, 447 and 427 read with 34 IPC. After completion of investigation the police also filed charge sheet. It is also stated that respondent Nos.1 and 2 filed anticipatory bail application before this Court vide Crl.P.No.8092 of 2011. By an order dated 14.09.2011, while granting anticipatory bail this Court observed as under:

“It is contended by the petitioners’ counsel that A1 and A2 are respectable members in the Society and that they have nothing to do with return of documents from Medchal Court. The petitioners’ counsel

further stated that he has instructions from the petitioners to the effect that petitioners have no claim in the land of Ac.5.00 in question in Jawaharnagar Village of Shameerpet Mandal”.

It is contended that in view of the said observations, respondent Nos.1 and 2 have no right or authority to claim the schedule property. In spite of the fact that they are not having right or title over the schedule property, the respondent Nos.1 and 2 are alleged to have gone to the schedule property and tried to dispossess the petitioner. In compelling circumstances, the petitioner filed O.S.No.77 of 2012 on the file of VIII Additional Senior Civil Judge, Ranga Reddy and obtained ad-interim temporary injunction against the petitioner in W.P.No. 17638 of 2012 and two others. The said suit was pending before the said Court. Left with no other option, the petitioner filed W.P.No.18398 of 2012 restraining the respondents therein from interfering with his possession and enjoyment over the schedule property.

The Tahsildar, Shamirpet Mandal, filed counter in W.P.No.17638 of 2012 stating that as per revenue records of Jawahar Nagar village the land admeasuring Ac.5.00 situated in Sy.No.255 is recorded as “Khariz Khata” since inception and the said government land is neither allotted nor assigned to any individual more particularly to the writ petitioner or her vendor. It is also stated that at present about Ac.0.30 gts., out of Ac.5.00 in Sy.No.255 of Jawahar Nagar Village was encroached by the petitioner, in which she constructed G+1 in an extent of about 2000 square yards and the rest of the land admeasuring 1600 square yards is open around the structure with a fencing. The petitioner started running a school in the said building. It is further stated that there are six ACC rooms exists in the land admeasuring Ac.0.10 gts. out of Ac.5.00 in Sy.No.255, in which no one stays and the rooms are locked. The remaining land admeasuring Ac.4.00 is a vacant Government land in which government sign boards are erected. It is also stated that on verification of material papers filed by the petitioner it is seen that the petitioner entered into an agreement of sale in respect of government land in the year 1999 with M.Sailoo (father of petitioner in W.P.No.18398 of 2012) and his son, who are no way concerned with the government land. The counter further discloses that the petitioner made applications before the revenue authorities seeking allotment of schedule land on the basis of market value or regularize the government land in her favour. The then Tahsildar, Shamirpet Mandal submitted a report to the District

Collector, Ranga Reddy District, to consider the request of the petitioner on payment of market value, but till date no orders to that effect are passed. Hence, prayed to dismiss the writ petition.

Respondent No.4, who is the petitioner in W.P.No.18398 of 2012 filed his counter in W.P.No.17638 of 2012 reiterating the averments made in the affidavit filed in support of the Writ Petition No.18398 of 2012.

Though various contentions are raised in the affidavit filed in support of the writ petitions, the counsel for the petitioner in W.P.Nos.17638 and 28487 of 2012 restrict his prayer to expedite the process of regularization, where as the counsel for the petitioner in W.P.No.18398 of 2012 restricts his prayer seeking a direction to respondent Nos.4 and 5 not to interfere with the subject property without following due process of law.

As seen from the docket proceedings, there was no interim order in W.P.Nos.17638 and 28487 of 2012. But in W.P.No.18398 of 2012, this Court by its order dated 03.09.2012 passed the following order:

“It is evident that the respondents 1 to 3 have stated that they have no claim over the land in Sy.No.255, situated at Jawaharnagar Village, Shameerpet Mandal, Ranga Reddy District, assigned in favour of late Sailu and the same was recorded by this Court in its order, dated 14.09.2011 in Criminal Petition No.8092 of 2011. The petitioner alleges that the respondents 4 and 5 are trying to dispossess him from the land. There shall be interim injunction as prayed for.”

Without going into the merits of the case and having regard to the consent given by the counsel for petitioner in both the cases, W.P.Nos.17638 and 28487 of 2012 are disposed of directing the official respondents therein to expedite the process of regularization, if the same is pending, and pass orders in accordance with law, at the earliest.

Insofar as W.P.No.18398 of 2012 is concerned, the same is disposed of directing respondent Nos.4 and 5 not to interfere with the subject property of dispute in this Writ Petition, without following the due process of law. If respondent Nos.4 and 5 claim that it is a government land, they are at liberty to

initiate appropriate proceedings in accordance with law.

It is needless to mention that the authorities shall pass orders after giving prior notice to the petitioners in all the writ petitions.

There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

23.12.2015

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