

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

WRIT PETITION No.13390 OF 2011

Between:

Bonagiri Kanakashekaram

and others. .. Petitioners

and

Executive Engineer (R&B),

Special Extension Division,

Mahabubabad, Warangal District,

and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCEMENT : 06th OCTOBER, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

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| 1. Whether Reporters of Local newspapers may be allowed to see the judgment? | Yes/No |
| 2. Whether copies of the judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether His Lordship wishes to see the fair copy of the judgment? | Yes/No |

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.13390 OF 2011

ORDER

This writ petition was filed assailing the inaction of the Revenue authorities upon the petitioners' representation to conduct a survey and fix boundary stones in their land in Sy.No.538 into which the Roads and Buildings Department allegedly encroached. A consequential direction was sought to restrain the Roads and Buildings Department from making any construction till a survey by metes and bounds was completed.

By order dated 30.04.2011, this Court directed *status quo* obtaining as on that date to be maintained in all respects for six weeks. Thereafter, on 09.06.2011, the *status quo* order granted earlier was directed to be continued until further orders.

The petitioners claim to be the owners of various extents of land in Sy.Nos.529, 537, 538/1, 539, 542, 543, 544 and 547/8 of Mahabubabad village, Warangal District. Earlier, when they had a dispute with the Forest Department, they filed O.S.No.164 of 1995 before the learned Junior Civil Judge, Mahabubabad, for a permanent injunction and the said suit was decreed on 04.04.2003. The injunction decree was confirmed on 30.04.2005 by the learned VI Additional District Judge (III FTC), Warangal at Mahabubabad, in A.S.No.53 of 2004 and thereafter, by this Court in S.A.No.194 of 2009.

While so, upon a requisition made by the Roads and Buildings Department, the District Collector, Warangal, issued proceedings dated 08.06.1994 allotting it an extent of Ac.3.00 guntas in Sy.No.551/888/50 of Mahabubabad Revenue Village for construction of office buildings. Having made some construction in about Ac.0.10 guntas, the Roads and Buildings Department left the rest of the land vacant. The land allotted to the Roads and Buildings Department was stated to be abutting the petitioners' land in Sy.No.538 of the village. The petitioners allege that the Roads and Buildings Department encroached into their land and started raising construction. They therefore filed a representation before the Revenue Divisional Officer, Mahabubabad, to conduct a survey of the land and to fix the boundary stones of their land and identify the land allotted to the Roads and Buildings Department. As no action was taken upon their representation, they filed the present writ petition.

The Executive Engineer (R & B), Special Execution Division, Mahabubabad, filed a counter-affidavit stating that the petitioners had approached this Court, 17 years after the allotment of the land. According to the Executive Engineer, the land allotted to the department was in Sy.No.551/1 of Mahabubabad Village. The entire land was stated to be bounded by barbed wire fencing. He further stated that during the fencing and the construction of the office buildings, no objections were raised by the petitioners. He denied that there was any encroachment by his department in the land in Sy.No.538. He however admitted that the land in Sy.No.538 was contiguous to the land in Sy.No.551 of the village.

The Tahsildar, Mahabubabad, Warangal District, filed a separate counter confirming that an extent of Ac.3.00 guntas of land was allotted to the R & B Department in Sy.No.551 of Mahabubabad Village and Mandal. He adverted to the

fact that barbed wire fencing with cement pillars was erected by the R & B Department. He conceded that the petitioners had submitted a representation for conducting a survey of the land for the purpose of fixing boundary stones and for identifying the land allotted to the Roads and Buildings Department. He stated that such a survey was not required as the Collector, Warangal, had allotted Government land on the basis of the sub-division record and location sketch prepared by the Assistant Director, Survey and Land Records. This was stated to be the reason why no action was taken upon the petitioners' application. He further stated that the petitioners did not remit the requisite fee in the treasury for the purpose of the survey.

The petitioners filed a reply-affidavit pointing out that they were not concerned with the land in Sy.No.551 of the village and that their claim related to the land in the neighbouring Sy.No.538 of the village. They pointed out that a compound wall had not been constructed till date. As regards their failure to pay the requisite fee, they stated that they were not furnished the details of the amount to be paid by them and therefore, the same could not be cited as a reason for refusing their request to conduct a survey.

The photographs filed by the petitioners and the authorities reflect that the Roads and Buildings Department has not constructed a compound wall around the entire extent allotted to it. Existence of the barbed wire fencing is evident from the photographs.

It is relevant to note that the petitioners lay no claim to the land in Sy.No.551 of Mahabubabad, which was allotted to the Roads and Buildings Department. Their interest lies only in the land in the neighbouring Sy.No.538. The fact that these two survey numbers are adjacent to each other is not disputed. Though the Revenue authorities would contend that the allotment to the R & B Department took place on the basis of certification by the officials of the Survey Department, the petitioners were obviously not privy to the same. Their grievance is that owing to the boundary dispute between these two survey numbers, their land is being encroached upon. This genuine complaint can be redressed by simply undertaking a survey on the basis of records so as to determine the exact boundary between the two survey numbers. A citizen is lawfully entitled to seek protection of his property and that is the very endeavour of the petitioners. The Revenue authorities therefore have to undertake a survey in accordance with law by putting both parties on notice for determining the boundary between the two survey numbers, so that both parties can

enjoy their respective lands.

The writ petition is accordingly allowed, directing the Revenue authorities to undertake survey of the land allotted to the Roads and Buildings Department in Sy.No.551 of Mahabubabad Village with specific reference to the boundary of the said survey number with the land in the neighbouring Sy.No.538, which is stated to belong to the petitioners. The Revenue authorities shall intimate to the petitioners the charges payable for such survey within two weeks from the date of receipt of a copy of this order. In the event the petitioners comply with all necessary formalities in this regard within two weeks thereafter, the Revenue authorities shall undertake the survey within four weeks from the date of such compliance. The survey report shall be furnished to both parties.

The interim order of *status quo* granted by this Court shall continue to operate pending completion of the survey. In the event the petitioners fail to comply with the due formalities for taking up the survey despite being informed of the charges payable by them as stipulated hereinbefore, this order shall stand recalled. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

06th OCTOBER, 2015

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