

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

—
WRIT PETITION No.984 of 2004

ORDER:

Heard the learned Senior Counsel for the petitioner and the learned Government Pleader for the respondents.

This Writ Petition was filed challenging the action of the respondent No.5 in claiming to have handed over possession of the land to respondent No.3 in an extent of Acs.5.00 in Tolla Kharkhana in Alwal Village within the municipal limits of the Greater Hyderabad Municipal Corporation.

The petitioner claims that his grandfather purchased the land under a registered sale deed vide document No.3053 of 1353 Fasli on 26th Aban 1353 Fasli. He purchased various extents in old Survey No.380, 381 and 382 of old Alwal Village. Though in respect of Survey Nos.381 and 382, Survey Nos.28, 26, 27 and 30 were shown as new survey numbers, in respect of old Survey No.380, no new survey number was assigned. In respect of old Survey No.382, new Survey No.30 was mentioned. The total extent of old Survey No.380 is Acs.8.06 guntas. The said extent was covered by a tanning industry. There were 126 ponds constructed for the purpose of tanning industry. The petitioner claims to have been in possession of the land belonging to his grandfather by virtue of a gift deed executed on 16.07.1981 when the petitioner was twelve years old. The extent of land that was gifted was Acs.7.37 guntas of industrial land with compound wall together with a pucca residential houses bearing Nos.2-96, 2-96A, 2-96B, 2-96C and 2-96D existing (129) tanning pools therein known as Turab Sab Karkhana, Macha Bollaram of old Alwal Village.

While so, respondent No.2 appears to have addressed respondent No.3 on 25.12.2003 stating that the then Minister for Commercial Taxes proposed the site in Survey No.380 for the construction of VAMBAY

houses in an extent of Acs.4.00. The petitioner submitted a representation on 01.01.2004 to respondent No.5 stating the true facts. When no action was taken for stopping the activity of construction of VAMBAY houses, the present Writ Petition was filed.

A caveat petition is filed by the then Commissioner of Alwal Municipality stating that an extent of Acs.5.00 of land, which is called Tolla Kharkhana in Survey No.380 situated at old Alwal Village, Malkajgiri Mandal, was allotted for VAMBAY scheme, and the said land was handed over to respondent No.3 on 31.12.2003 by respondent No.5. It was also stated therein that the District Collector, Ranga Reddy District, vide his letter dated 09.01.2004 addressed to respondent No.5 stated that the land in question was a Government land.

Respondent No.1 filed a counter affidavit stating that as per Wasool Baqui Register the old Survey Nos.381 and 382 were assigned new Survey Nos.26, 27, 28 and 30, whereas old Survey No.380 was not assigned any new survey number, instead it was written as Abadi Kharkhana Cheram, and in view of the same, it was treated as the Government land. It was allotted to respondent No.3 for construction of VAMBAY houses for the urban poor. But, the construction could not be proceeded in view of the pending litigation and land was lying vacant with a Dargah, temple and one incomplete structure. The land was handed over to respondent No.3 on 31.12.2003. However, on the application made by the petitioner, the then Assistant Director of Survey and Land Records, had issued a Memo dated 16.08.2002 stating that the land in old Survey No.380 was described as Tolla Kharkhana in the revision survey, which took place in the year 1354 Fasli. This was issued on verification of pucca book of Alwal Village which was in a torn condition. Since no new survey number was issued in respect of Survey No.380, it was treated as Government land.

Respondent No.3, on the other hand, filed a counter affidavit

stating as under:

“It is submitted that in the similar process as mentioned above the MRO, Malkajgiri Mandal has selected the land site to an extent of Acs.5.00 Gts under Survey No.380 of Alwal Village and reported to have handed over the same to the respondent No.3 herein for the purpose of construct of houses to 219 beneficiaries selected by the competent authority. It is pertinent to submitted that, in fact no such information relating to handing over of the said land is forthcoming on record. The 3rd respondent (Viz) the District Manager/Project Director, APSHCL, R.R.District, has no role to play either in selection and identification of land site for executing the Government Housing Programme/Schemes or to find out the title of the land so handed over to it by the concerned MRO/Tahsildar as to whether the site is the government land or private. It is further submitted that it is for the Revenue Officials (i.e.,) MRO/Tahsildar to look into the aspect of title with respect to the land proposed to be handed over to respondent No.3 for grounding the construction work under the Government Housing Programmes to be executed by the respondent No.3 Corporation.”

Respondent No.2 – Municipal Corporation, also filed a separate counter affidavit stating that there is a title dispute between the petitioner and the Revenue Department. The role of the Corporation is to identify site for construction of houses and to prepare the layout. Respondent No.5 requested respondent No.3 on 01.01.2004 to stop construction on the subject site pending verification of revenue records and clarification of the District Collector, Ranga Reddy District.

Respondent No.5 also filed a separate counter affidavit denying the claim of the petitioner that the land in Survey No.380 was described as Tolla Kharkhana. As per the Wasool Baqui of 1354 Fasli, the land was shown as Abadi. On the request of the petitioner on 01.01.2004 respondent No.5 requested respondent No.1 to clarify whether the Tolla Kharkhana was a private land or not. Respondent No.1 clarified it as per the Wasool Baqui 1354 Fasli. When objections were called for on 22.01.1950, no objections were filed. Hence, the land vested with the local body i.e., Gram Panchayat/Municipality.

One Ayub Ali Khan, filed an implead petition in W.P.M.P.No.8386 of 2014 and stated that the petitioner entered into an agreement of sale

with him when O.S.No.1161 of 2003 was pending, and after entering into the agreement of sale with him, he filed the present Writ Petition. Though, this Court granted *status quo*, the petitioner sold the property by executing about 44 documents in favour of various parties suppressing the *status quo* orders and also executed the agreement of sale dated 10.01.2002 and the Special GPA in favour of the proposed party on 11.02.2005. This Court, by order dated 07.03.2014, dismissed W.P.M.P.No.8386 of 2014.

The above averments in the affidavit filed in support of the Writ Petition and in the counter affidavits filed by the respondents disclose different claims. But, the petitioner claims title to the property executed by his grandfather, who was the original landowner and who was alleged to have purchased the property under a registered sale deed vide document No.3053 of 1353 Fasli on 26th Aban 1353 Fasli. Respondent No.1 filed a counter affidavit stating that it is Abadi land and there is no correspondent survey number to the old Survey No.380 and hence it was treated as the Government land. Respondent No.3 stated that the land was not handed over to him for the purpose of construction of houses. Respondent No.5 states that since it is Abadi land, the land vested with the local authority. The proposed respondent No.6 states that during the pendency of the Writ Petition, the petitioner executed 44 documents selling plots of land in favour of various persons in spite of *status quo* orders passed by this Court. Be that as it may, the VAMBAY scheme was not grounded for various reasons for the last ten years. Learned Senior Counsel for the petitioner fairly submits that no constructions have been made by the respondents and there is no interference as on today.

In view of the above circumstances, this Writ Petition is disposed of directing the respondents to issue appropriate notices to the affected parties before taking any action either for construction of houses for urban poor and before claiming the land as a Government land, and till

such time, the persons in possession of the land shall not be disturbed.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

06.02.2015

vs