

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

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WRIT PETITION No.22398 OF 2015

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Between:

Andela Bala Obulesu .. Petitioner

And

The State of Andhra Pradesh, rep., by its
Principal Secretary, Revenue Department,
Secretariat, Hyderabad and others .. Respondents

DATE OF JUDGMENT PRONOUNCED: 06.08.2015

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SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.22398 OF 2015

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Revenue appearing for respondents 1 to 4 and learned counsel for respondent Nos.5 and 6, who are contesting the Writ Petition.

The petitioner feels aggrieved by the impugned notice, dated 06.07.2015, issued by the Mandal Surveyor, Pendlimarri Mandal, YSR Kadapa District, the 4th respondent on the application of the 6th respondent proposing to conduct survey of lands in Survey Nos.107/2, 158/3 and 158/5 of Yellatur Village and Gram Panchayat, Pendlimarri Mandal, YSR Kadapa District. The primary contention of the petitioner is that there are already two civil suits pending and one such suit, being O.S.No.391 of 2012, was filed by him before the Senior Civil Judge, Kadapa, against the 5th respondent seeking specific performance of an agreement of re-conveyance, dated 13.09.2006. The petitioner's case in the said suit was that he is the original owner of the property in question and sold it to one Obaiah towards security for Rs.50,000/- borrowed by Obaiah and thereafter the petitioner borrowed Rs.95,000/- from the 5th respondent by executing another sale deed, dated 13.09.2006, in his favour and at that time, the

5th respondent executed an agreement of re-conveyance in favour of the petitioner. Apart from the aforesaid suit, the petitioner filed another suit in O.S.No.512 of 2012 for partition before the Principal Junior Civil Judge, Kadapa, wherein the suit lands, referred to above, are shown in the plaint schedule. The impugned notice is therefore questioned on the ground that though the civil proceedings are pending before the competent civil Court,

as above, the conducting of survey of the said land at the instance of the 6th respondent is not justified and the petitioner also apprehends that he would be dispossessed under the guise of survey despite his continuous possession throughout.

Counter affidavit and the vacate petition are filed by the 6th respondent pointing out that the petitioner's first sale deed in favour of Obaiah was on 14.08.2000 and thereafter the said Obaiah executed the sale deed in favour of the 5th respondent on 13.09.2006. The basic claim of the petitioner that he obtained a deed of re-conveyance in his favour is strongly denied, apart from contending that the said agreement is doubtful.

Learned counsel for the 6th respondent points out that the 5th respondent sold the property in question in favour of the 6th respondent on 04.09.2012 and he has been granted pattadar passbooks and title deeds and his name has been reflected in the revenue records throughout. The copy of patta No.798 showing three survey numbers in the name of the 6th respondent is produced apart from other revenue records. The 6th respondent states that he merely requested the 4th respondent to conduct survey and demarcate his land, based on which, the aforesaid notice was issued on 06.07.2015.

Learned counsel also points out that the said notice was served on all the adjacent cultivators including the petitioner's brother, but without specifically stating all these aspects, the petitioner has filed the present writ petition and obtained interim direction.

When this Writ Petition came up for admission on 22.07.2015, this Court noticed the pendency of two civil suits as well as the fact that the 6th respondent is stated to have been impleaded in the suits, and based on that, the proposed action of the 4th respondent for conducting survey, was stayed.

During the hearing of this matter today, it is not disputed that the 6th respondent appears to have been impleaded in the suit in O.S.No.391 of 2012, which was originally filed against the 5th respondent and on the basis of the subsequent purchase, the 6th respondent was impleaded. Further, so far partition suit in O.S.No.512 of 2012 is concerned, the 6th respondent is not yet impleaded as a party, though the implead petition is pending in the suit. The fact, therefore, remains that the petitioner has pattadar passbooks and title deeds and the revenue records support his title. Apart from that admittedly he has a registered sale deed, dated 04.09.2012, in his favour and if he is not a party to the partition suit, it cannot be said that conducting of survey on the request of the 6th respondent would affect the jurisdiction of the competent civil Court trying the partition suit. The interim order earlier granted was on the petitioner's averments that the 6th respondent was a party to both the suits. It appears to be not correct and, therefore, conducting of survey, as proposed under the impugned notice, does not deserve to be interdicted.

The Writ Petition is, accordingly, dismissed. There shall be no

order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

VILAS V.AFZULPURKAR, J

06.08.2015

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