

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

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WRIT PETITION No. 28715 of 2015

BETWEEN

Smt.Shobha Jain

... PETITIONER

AND

The State of Telangana, Rep. by its Principal Secretary,
Revenue Department and others

...RESPONDENTS

Date of Order pronounced: 15.09.2015

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THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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

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ORDER:-

Heard.

2. Petitioner questions the order of the revisional authority in File No.E7/3081/14 dated 13.08.2015. Alleging that petitioner had encroached on the part of the land in the Government Mental Hospital in survey No.127/1, which was re-numbered as Survey No.157, of Bhaloolkhan Guda Village, to the extent of 172 sq.metres, she was given a notice by the Tahsildar under Section 7 of the A.P. Land Encroachment Act, 1905 (for brevity, "the Act") on 19.05.2012. After considering the explanation submitted by the petitioner, the Tahsildar passed orders on 13.02.2014 under Section 6 of the Act directing eviction of the petitioner. An appeal filed against the said order by the petitioner before the Revenue Divisional Officer (RDO) in case No.B/520/2014 was also rejected on 13.11.2014 and a further revision filed by the petitioner before the Joint Collector was also dismissed under the impugned order.

3. Learned counsel for the petitioner states that petitioner is a *bona fide* purchaser having purchased the property in the year 2006 and had obtained due permission under the GHMC and made constructions therein, which was given House No.8-3-164/24, Erragadda, Hyderabad, and as such he is not an encroacher.

Even otherwise, alternatively, it is submitted by filing additional affidavit that petitioner made an application for regularization under G.O.Ms.No.58 dated 30.12.2014 under acknowledgment dated 13.01.2015.

4. Leaned government pleader has received instructions in the matter.

5. I have heard learned counsel for the petitioner at length. However, I am not able to see any reason to entertain the writ petition as the impugned order cannot be said to suffer from any infirmity in law. It is not in dispute that petitioner's vendor herself was found to have encroached and she had herself submitted an application for regularization under G.O.Ms.No.508 dated 20.11.1995. Subsequently, the District Collector directed the encroacher to submit fresh application under G.O.Ms.No.166 dated 16.02.2008 and at the time of service of the said communication, it was noticed that petitioner's vendor has sold the property to the petitioner in the year 2006. Hence, the said memo was served on the petitioner as well as on

her vendor and they submitted regularization application under G.O.Ms.No.166 to the District Collector on 04.02.2009. The said proposals were stated to have been placed before the District Level Committee on 15.07.2010 and the said Committee rejected the said application on the ground that the land was classified as belonging to Mental Hospital and required for public purpose. Petitioner was accordingly informed on 19.11.2011. Thereafter, petitioner was given notice under Section 7 of the Act, as stated above, and thereafter the present proceedings have taken place.

6. It is evident from the above that petitioner herself had purchased the property from the vendor, who is found to be an encroacher, and when the vendor of the petitioner herself has made a request for regularisation, it cannot be said that petitioner is a *bona fide* purchaser. Consequently, the land being a property belonging to the Government and required for public purpose cannot be disputed by the petitioner and as such regularisation cannot be sought as a matter of right.

7. The impugned order is not shown to suffer from any arbitrariness or illegality inasmuch as the petitioner shall be given due opportunity to submit explanation. The same was considered and petitioner has already availed hirarchical remedies of appeal and revision. Hence, in the absence of any *prima facie* case made out, the writ petition does not deserve to be entertained.

8. Writ petition is accordingly dismissed. However, as the petitioner states that her application under G.O.Ms.No.58 is pending with the respondents, as noted above, respondents are free to consider the said application and take appropriate decision in accordance with the policy of the Government under the said GO.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

September 15, 2015
LMV