

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.28965 of 2011

ORDER:

-

Aggrieved by the inaction of the 3rd respondent in fixing the boundaries, by demarcating the land admeasuring Ac.01-92 cents in survey No.499 of Noonepalli Village, Nandyal Mandal, Kurnool District pursuant to a representation dated 07-06-2011, as illegal and arbitrary and violative of fundamental rights guaranteed under the constitution, the present writ petition is filed.

The averments in the writ petition show that one Vulli Kamini Subbaiah, who is the paternal grand father of the petitioners, is the original land owner to an extent of Ac.17-63 cents in survey No.499 of Noonepalli Village, Nandyal Mandal, Kurnool District. The said Subbaiah died intestate in the year 1974 leaving behind his only son by name Nandipathi, who is the grand father of the petitioners herein. Said Nandipathi had five sons. The father of petitioners by name Sreenivasulu is one among them. Said Nandipathi died in the year 1999. It is further stated that after his death, the father of petitioners and his brothers entered into family arrangement and they were enjoying their respective shares since then. The father of the petitioners executed a registered gift deed dated 07-04-1980 giving an extent of Ac.01-92 cents in above survey number in favour of the 1st petitioner, showing his paternal grand mother by name Vulli Kamini Subbamma as his guardian. It is further stated that after demise of said Subbamma, the 1st petitioner approached the 3rd respondent-Tahsildar, Nandyal Mandal Kurnool District to demarcate the land with specific boundaries and also gave representation dated 07-06-2011 after payment of requisite fee. It is stated that till date, the respondents have not acted upon. Hence, the writ petition.

A counter came to be filed by the 3rd respondent stating that the writ petitioner never approached him at any time so far and he never

paid any interest at any time in the matter. According to him, land to an extent of Ac.17-63 cents in survey No.499 situated in Noonepalli Village of Nandyal Mandal belongs to one Vulli Kamini Subbaiah and the same was enjoyed by his L.Rs. The grand sons of Vulli Kamini Subbaiah and his daughter-in-law and their sons were enjoying their family properties and later entered into an agreement of sale with M/s.Aruna Estate Traders, which is a registered firm, on 22-04-1983 and received entire consideration. It is further stated that subsequently, said Aruna Estate took possession of the total land in survey No.499 and obtained Registered General Power of Attorney from the sons of Kamini Subbaiah by name Nandipathi and his wife Subbamma and their five sons including the father of the petitioners. The said Aruna Estate also purchased land in survey Nos.498 and 500 and obtained the lay out plan No.207/1983 for said survey Numbers including Sy.No.499. It is further stated that there were total 343 plots sold by said Aruna Estate to several people. It is stated that even as per the revenue records, the petitioners were never in possession of the property either prior to the registered gift deed or after that. It stated that survey No.499 is residential built up area and the same is noted as Kranthi Nagar house site at column No.31 of No.3 Accounts of Revenue records. It is further submitted that the total extent of land in the survey number is a single plot and there were no demarcations in it. Unless and until the petitioners are physically present, identify the property and shown the boundaries, the exact extent will not be known to demarcate the boundaries. The revenue officials visited several times along with 2nd petitioner to identify the property, but could not identify the land of the 1st petitioner in the built-up area. As such it is difficult for the respondents to measure any piece of land and demarcate the same. Hence, prayed to dismiss the writ petition.

The averments in the counter show that the petitioners are well

aware about the alienation of land by her father and the same is converted into house plots. It is further stated that unless and until, the petitioners are physically present and identify the property, it is difficult to fix the boundaries. The counter also states that the surveyor of the 3rd respondent office and other revenue officials paid several visits along with the 2nd petitioner to identify the property, but the 2nd petitioner was unable to identify the 1st petitioner's land in the said area. But the counter is silent as to the dates on which the said visits were made by the Surveyor and also as to whether said visits were made pursuant to the representation dated 07-06-2011. Learned counsel for the petitioners disputes the visits of the Surveyor and according to him the representation dated 07-06-2011 is still pending consideration.

Without going into the merits of the case and having regard to the circumstances stated above, the 3rd respondent is directed to consider the representation dated 07-06-2011 made by the petitioners, if it is still pending consideration and pass orders in accordance with law within a period of four weeks from the date of receipt of the order.

Accordingly, the writ petition is disposed of.

As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

02-07-2015
Nvl