

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.11404 of 2012

-
09.07.2015

Between:

Maqsood Khan and another

...Petitioners

And

Professor Jayasankar Agricultural University and others

...Respondents

Counsel for the petitioners: Mr.M.A.Mujeeb

Counsel for respondent Nos.1 and 3: Mr.P.Thimothi

Counsel for respondent No.2: Mr.Palle Sriharinath

Counsel for respondent Nos.4 to 7: Mr.P.Chandrasekhar
for Mr.B.Chinnapa Reddy

-
The Court made the following:

-

-

ORDER:

This writ petition is filed for a *mandamus* to declare the action of the respondents in causing disturbances to the enjoyment of the petitioners' property admeasuring Acs.1400 sq.yds in survey No.23/A of Shivarampally (Jagir) Village, Rajendra Nagar Mandal, Ranga Reddy District, by threatening to demolish the boundary wall of the said property as illegal and arbitrary.

I have heard Mr.M.A.Mujeeb, learned counsel for the petitioners, Mr.P.Thimothi, learned counsel for respondent Nos.1 and 3, Mr.Palle Sriharinath, learned counsel for respondent No.2 and Mr.P.Chandrasekhar, learned counsel representing Mr.B.Chinnapa Reddy, learned counsel for the impleaded respondents i.e., respondent Nos.4 to 7.

The petitioners averred that one S.Bagaiah was the owner of land admeasuring Acs.14.24 guntas in survey No.23/A of Shivarampally Village, that out of the said land, the Government of Andhra Pradesh acquired land admeasuring Acs.7.00 and out of the remaining land, one Kazim Hussain purchased land admeasuring Ac.0.12 guntas from the original owners and pattadars under registered document No.2510/1997 and that the petitioners purchased the said property of Ac.0.12 guntas (1400 sq.yds) under two separate registered sale deeds in the year 2006 and they have joined together to construct a mosque over the said property. That though respondent Nos.1 and 2 have no right whatsoever over the said property, they are making attempts to demolish the boundary wall of the property by removing the board erected by the petitioners showing that a mosque

is under construction. The petitioners relied upon decree, dated 05.10.1995, in O.S.No.240 of 1994 on the file of the District Munsif, Hyderabad, for perpetual injunction against respondent No.2.

On behalf of respondent Nos.1 to 3, respondent No.1 i.e., the erstwhile Registrar of Acharya N.G.Ranga University filed a counter-affidavit, wherein he has taken a preliminary objection to the maintainability of the writ petition on the ground that various disputed questions of fact cannot be adjudicated in the writ petition. On merits, he has averred that out of the total extent of Acs.14.24 guntas in survey No.23/A, land to an extent of Acs.7.12 guntas was under the possession of Dairy Farm Wool Technology Institute, which was later transferred to respondent No.1 university, *vide* G.O.Ms.No.1948, dated 11.06.1966, by the Government of Andhra Pradesh, Food and Agriculture Department, that under the said G.O., the following research stations viz., (i) Government Live Stock Farm, Palamner and (ii) Dairy Farm & Wool Technology Institutes along with their staff shall be transferred and maintained by respondent No.1 university from 01.07.1966. It is further averred that due to bifurcation of respondent No.1 university, another university, *viz.*, Sri Venkateswara Veterinary University was established and the land claimed by the petitioners has become part of said Sri Venkateswara Veterinary University. However, as demarcation of the land is not completed, the land continues to be under the control of respondent No.1 university. That after excluding the extent of Acs.7.12 guntas acquired for respondent No.1 university, out of the balance extent of Acs.7.12 guntas, the original pattadar sold an extent of Acs.5.21 guntas to Bharani Cooperative Housing Society and the remaining extent of Acs.1.31 guntas was sold to one Sri Lakshmi Narsimha Reddy under registered sale deeds and that accordingly, no surplus land is available in survey No.23/A, over which the petitioners claimed their right.

The impleaded respondents in their affidavit have pleaded that they are the members of Bharani Cooperative Housing Society, which has purchased land admeasuring Acs.5.21 guntas in survey No.23/A from the original pattadar. They further averred that the petitioners have been trying to encroach upon the land allotted to them by the said society.

No rejoinders are filed by the petitioners either to the counter affidavit filed on behalf of respondent Nos.1 to 3 or to the affidavit filed by the impleaded respondents i.e., respondent Nos.4 to 7.

It is the pleaded case of the petitioners that they have purchased 1400 sq.yds of land from the original pattadar/his legal heirs. However, as per the stand taken by the official respondents, no surplus land is available, which could be alienated by the original pattadar or his legal representatives to any person including the purported vendor of the petitioners and that, therefore, the claim of the petitioners that they are the owners of 1400 sq.yds of land is without any basis. All the respondents have pleaded that the petitioners have been trying to encroach upon their respective lands. In my opinion, as rightly averred in the counter-affidavit filed on behalf of respondent Nos.1 to 3, as this writ petition raises several disputed questions of fact relating to title and possession, it is not possible to adjudicate such disputed questions in a writ petition filed under Article 226 of the Constitution of India. The appropriate remedy for the petitioners is to file a civil suit and claim suitable reliefs against the respondents.

In the light of the above discussion, the Writ Petition is dismissed, however, with liberty to the petitioners to avail common law remedy of a civil suit.

As a sequel to dismissal of the writ petition, interim order, dated 02.05.2012 is vacated, W.P.M.P.No.14386 of 2012 and W.V.M.P.No.3673 of 2012 shall stand dismissed as infructuous.

09th July, 2015
GHN

C.V.NAGARJUNA REDDY, J