

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION Nos. 17620 and 19296 of 2011

COMMON ORDER:

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Since the cause in both the writ petitions is one and the same, they are being disposed of by way of this common order.

Heard learned counsel for the petitioners, learned Government Pleader for Revenue and learned Government Pleader for Social Welfare.

With the consent of all the parties, both the writ petitions are being disposed of at the admission stage.

W.P.No.17620 of 2011 is filed seeking issuance a writ of mandamus declaring the action of respondent Nos.1 to 3 in allotting the land of the petitioners admeasuring 300 square yards situated in P.S.No.5/1, Block No.A, Block No.163 (Ward No.2, Block No.2) Sy.No.578/4 situated at Bagh Amberpet, Amberpet Mandal, Hyderabad, to the fourth respondent as illegal, arbitrary and in violation of principles of natural justice; and consequently direct the fourth respondent not to raise any structures in the said land.

W.P.No.19296 of 2011 is filed seeking issuance of a writ of mandamus declaring the inaction of the respondents to conduct survey as to find out in which survey number i.e. Sy.No. 578/4 or 578/1 petitioners land is situated by demarcating the same; and consequently direct the respondents to stop going ahead with the constructions.

The averments in both the writ petitions would show that the

petitioners are the absolute owners of the land admeasuring 1914 square yards in P.S.No.5/1, Block No.A, Block No.163 (in ward No.2, Block No.2) Sy.No.578/4 situated at Bagh Amberpet, Amberpet Mandal, Hyderabad, having inherited the same from one B.Raghupathi, who is the husband of petitioner No.1 and father of petitioner Nos.2 to 5. It is stated that the said B.Raghupathi acquired the said property along with some other property by way of Hibanama executed by one Mr. Ahmed Sharif Madani on 17.06.1956. It is stated that by virtue of Hibanama, B.Raghupathi and thereafter the petitioners are in continuous possession and enjoyment of the said property. Due to financial necessities, the petitioners entered into a registered agreement of sale-cum-general power of attorney with the deponent and some others for sale of the above property vide document No. 188 of 2010 dated 12.01.2010. Pursuant to the execution of the above said document, possession was delivered and thereafter they obtained permission from the G.H.M.C. for construction of compound wall and the same was constructed around the property. When the deponent tried to erect a gate, some third persons tried to encroach into their land. Then they filed O.S.No.3545 of 2010 on the file of the XIX Junior Civil Judge, City Civil Court, Hyderabad. Along with the suit they also filed I.A.No.792 of 2010 seeking temporary injunction which came to be dismissed on 08.11.2010. An appeal was filed against the said order which was allowed on 07.03.2011 granting temporary injunction. Aggrieved by the same, C.R.P.No.1083 of 2011 was filed before this Court, but no interim orders are granted. While things stood thus, the officials of the fourth respondent are alleged to have dumped the construction material in the said property. It is stated that the respondents started raising structures in an extent of 300 square yards and

when the deponent enquired as to why they are raising structures, they were informed that the third respondent allotted the said land to the fourth respondent for construction of an office. Challenging the said action W.P.No.17620 of 2011 was filed and W.P.No.19296 of 2011 came to be filed to demarcate the boundaries of the disputed land.

Counter came to be filed by third respondent in both the writ petitions denying the allegations made in the report. A perusal of the counter would show that on 22.07.2015 the Tahsildar, Amberpet Mandal, conducted a survey in respect of the land situated in T.S.No.4, Block No.A, Ward No.163 of Amberpet Village and Mandal, which was allotted to RVM for construction of Government School building in the land admeasuring 220 square yards from out of the total extent of 10831 square yards as per TSLR. It is stated that a panchanama was also prepared which discloses that the land was handed over to the School in which a building was already constructed in the name of Government Girls High School (Gosha Mahal), EM & UM School. Therefore, the request of the petitioners in W.P.No.19296 of 2011 wherein they sought for survey cannot be accepted as survey is already done. Insofar as the prayer in W.P.No.17620 of 2011, the question of preventing the respondents from proceeding further with the construction would not arise as the panchanama which is prepared in the month of July, 2015 clearly show that the land was allotted to RVM for construction of a Government School and the building was already constructed. If really the petitioners dispute the title and right of the respondents over the said property, the remedy for them is to approach the civil Court and seek an appropriate relief. Since the issue involves dispute over the title, it may not be proper for this Court to decide as to who is the owner of the land and also

as to the possession of the property. Hence, this Court is of the view that there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, both the writ petitions are dismissed. No order as to costs.

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

C. PRAVEEN KUMAR, J

12.08.2015

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