

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 32179 of 2015

Date : 05-10-2015

Between :

Smt Mary Jacob W/o Sri Jacob Pulicakal

R/o 5-9-434, Gunfoundry, Hyderabad

Petitioner

And

GHMC, rep by its Commissioner,

Tank Bund Road, Hyderabad and others

Respondents

The Court made the following:

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ORAL ORDER:

According to petitioner he purchased land to an extent of 61.33 sq yards by way of registered sale deed dated 21.1.1989. Petitioner applied for regularization of 21 sq yards which was in his exclusive possession in addition to the above extent of land and having considered the grievance of the petitioner and based on the report of the Revenue authorities, Collector passed orders on 13.8.2004 granting regularization in favour of the petitioner. Learned counsel for petitioner therefore submits that petitioner is in possession to an extent of approximately 82 sq yards, while so, respondent corporation is now constructing compound wall by encroaching into the land of the petitioner and such action of the respondent corporation is illegal.

2. Learned counsel for petitioner submitted that it is the responsibility of the respondent corporation to demarcate the extent of land petitioner is entitled to and then only compound wall can be constructed, whereas respondents are going ahead with construction of the wall encroaching upon the private property. It is further stated that in the year 2004 petitioner applied for conducting of survey but so far no survey is conducted.

3. Learned standing counsel submits that there was existing compound wall and

since wall was in dilapidated condition, the said wall was removed and in the same place construction of new wall is taken up and municipal corporation is all along in possession and enjoyment and that corporation is not encroaching into the land as alleged by the petitioner. The property belongs to library building maintained by the respondent corporation and only compound wall is now strengthened.

4. According to petitioner, he is entitled to 82 sq yards and same is in his possession and by way of action of the respondent corporation he is sought to be dispossessed. Since it is a disputed question of fact, it cannot be resolved in writ petition and petitioner has to work out his remedies before civil Court. It is always open for the petitioner to apply for conducting of survey and in the survey conducted in the presence of petitioner and respondent authorities if it is found that there is encroachment by the respondent corporation, petitioner can assert his right and ask corporation to give back possession. Prima facie at this stage, no relief as sought for can be granted. It is needless to observe that as and when petitioner applies for conducting of survey, same shall be taken up by the competent authority as expeditiously as possible, preferably within a period of three weeks from the date of submission of such application.

5. The writ petition is accordingly disposed of. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

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P NAVEEN RAO,J

DATE:5.10.2015

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HONOURABLE SRI JUSTICE P. NAVEEN RAO

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