

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 33267 of 2011

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ORDER:

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Heard learned counsel for the petitioners, learned Government Pleader for Revenue appearing for the respondents

1 to 3 and learned standing counsel for Greater Hyderabad Municipal Corporation appearing for the 4th respondent. With the consent of the parties, the writ petition is disposed of at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the inaction of the respondents 2 and 3 in regularizing plot Nos.1 to 4 in Survey No.123 situated at Nallagandla Village, Serilingampalli Mandal, Rangareddy District, in favour of the petitioners, and also the action of the respondents 1 to 3 in interfering with the possession and enjoyment of the petitioners over the said plots, as illegal and arbitrary.

The case of the petitioners is that the wife of the 1st petitioner and the other petitioners own residential buildings in Survey No.27 situated at Chandanagar Village, Serilingampalli Mandal, Rangareddy District, and they are in possession and enjoyment of the same since ten years. As the State Government proposed to construct a building for Chandanagar Police Station, the wife of the 1st petitioner and the other petitioners were asked to hand over possession of the land in Survey No.27, and in lieu thereof, alternative land in Survey No.123 situated at Nallagandla Village, Serilingampalli Mandal, was agreed to be allotted to them. Accepting the proposal made by the Government, the wife of the 1st petitioner and the other petitioners vacated their buildings on 09.07.1999 and handed over vacant possession of the said property to the respondents 2 and 3 under a panchnama. On 10.06.1999, the 3rd respondent sent proposals to the 2nd respondent recommending allotment of 600 sq.yards to the wife of the 1st petitioner and 300 sq. yards each to the petitioners 2 and 3 in Survey No.123 of Nallagandla Village, which was

accepted by the 2nd respondent vide his letter No.LC1/4558/99 dated 09.07.1999. Pursuant to which, the wife of the 1st petitioner and the other petitioners were handed over vacant possession of plot Nos.1 to 4 under panchnama dated 10.10.1999. After taking possession of the plots, the petitioners are said to have constructed a compound wall around the plots and the petitioners 2 and 3 have constructed two rooms each in the plots given to them. It is stated that the wife of the 1st petitioner expired in the year 2004 and since then the 1st petitioner is looking after the plot allotted to her. On 18.03.2006 and 22.12.2008, the petitioners submitted representations to the 3rd respondent seeking issuance of pattas in their favour, who in turn, addressed a letter dated 18.07.2009 to the 2nd respondent requesting him to pass necessary orders. Thereafter, the petitioners approached the 4th respondent seeking permission for construction of houses, but the 4th respondent is insisting them to obtain NOC from the respondents 1 to 3. While things stood thus, the respondents 2 to 4 are said to have come to the plots of the petitioners on 28.11.2011, tried to demolish the compound wall by interfering with their possession and enjoyment over the property, which was resisted by the petitioners. Thereafter, the petitioners made a representation dated 01.12.2011 to the Joint Collector, Rangareddy District, seeking regularization of the plots in their favour, but no orders came to be passed till date. Hence, the present writ petition.

A counter came to be filed by the 3rd respondent stating that the petitioners are encroachers of the Government land in Survey No.27 of Chandanagar Village. As the Government proposed to construct a building for Chandanagar Police Station in the Survey No.27, in lieu of the said encroached area, alternate land to an extent of 600 sq. yards to the 1st petitioner and 300 sq. yards each to the petitioners 2 and 3 was provided in Survey No.123 of Nallagandla Village under panchnama dated 10.10.1999 and since then they are in possession of the same. In so far as the NOC is concerned, it is stated in the counter that it is for the petitioners to obtain NOC from the 2nd respondent by submitting an appropriate application with relevant documentary evidence. It is said that instead of making such application, the petitioners filed the present writ petition.

A perusal of the material placed on record would show that after filing of the writ

petition, the 3rd respondent, vide his proceedings No.B/504/1998 dated 06.06.2012, ordered eviction of the petitioners from the land in Survey No.123/P of Nallagandla Village. Aggrieved by the same, the petitioners preferred a revision before the Chief Commissioner of Land Administration at Hyderabad, Andhra Pradesh, who by his order dated 24.05.2013, allowed the said revision holding as under:

“Heard both counsel for the revision petitioners and SGP. Perused the lower court record. It is revealed that the revision petitioners were given possession of the schedule land by the revenue authorities in lieu of the land they have vacated for construction of Chandanagar Police Station. Therefore, the revision petitioners are not unauthorized encroachers. They were in possession of the land with the knowledge and permission of the concerned revenue authorities. So, the order passed by the Tahsildar evicting the revision petitioners under Section 6 of the Land Encroachment Act is bad in law.”

The order passed by the Chief Commissioner of Land Administration has become final, as no appeal was filed against the same. That being the position, it cannot be said that the petitioners are encroachers of the land in Survey No.123 of Nallagandla Village.

At this stage, the learned counsel for the petitioners submits that a necessary direction may be given to the 2nd respondent for issuance of NOC so as to enable the petitioners to construct pucca houses. In response, the learned Government Pleader for revenue submits that if an application is made to the 2nd respondent with relevant documentary evidence, appropriate orders will be passed thereon. But, the record reveals that the petitioners have already made an application dated 01.12.2011 to the 2nd respondent seeking regularization of the land allotted to them in Survey No.123 of Nallagandla Village, Serilingampalli Mandal, Rangareddy District. Hence, the Writ Petition is disposed of, directing the 2nd respondent to consider the representation of the petitioners dated 01.12.2011 and pass orders thereon, in accordance with law, within a period of four (4) weeks from the date of receipt of a copy of the order. There shall be no order as to costs.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed.

JUSTICE C. PRAVEEN KUMAR

11th September, 2015

Note: Furnish C.C. by 14.09.2015.

(b/o)

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