

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.14401 of 2015

DATED : 29.09.2015

Between :

R. Ranga Reddy S/o.Late Buchi Reddy,
Aged about 62 yrs, Occu : Agriculture,
R/o.H.No.1-12/3, Dharmapuram Village,
Dharmasagar Mandal, Warangal District.

.. Petitioner

and

The Commissioner,
Greater Warangal Municipal Corporation,
Warangal & another.

.. Respondents

This court made the following :

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ORDER :

The petitioner claims to have purchased plot No.16 in Sy.No.602 (old) and

705 (new) admeasuring 247 Square yards in Teachers Colony, Waddepalli, Hanamkonda, and claims to be in possession and enjoyment of the said property. While so, according to the petitioner on 08.09.2014 the revenue authorities came to the petitioner's site and threatened the petitioner that the land which the petitioner is now occupying is a Government land. As per the revenue records a Nala is going through the petitioner's land and sought to dispossess the petitioner without following the due process. At that stage, the petitioner filed W.P.No.27004 of 2014. The said writ petition was disposed of by order dated 08.10.2014 along with two other writ petitions. Thereafter, notice dated 24.04.2015 was served by the respondent-Municipal Corporation calling upon the petitioner to substantiate his claim that he has valid title and that he is not in occupation of the Nala. On consideration of the documents filed by the petitioner and in pursuant to the said notice, proceeding dated 08.05.2015 was issued exercising power under Section 636 (1) of Hyderabad Municipal Corporation Act, 1955, directing the petitioner to remove unauthorized compound wall raised on the Nala. Aggrieved thereby, this writ petition is filed.

2. Heard Sri R.A.Chary, learned counsel for the petitioner and Smt.Pingali Lakshmi, Standing counsel for R.2.

3. The learned counsel for the petitioner contends that no Nala is existing and illegally the respondents are trying to take away the land of the petitioner which was validly purchased by him and was in possession and enjoyment for a long time. Learned counsel further contends that the impugned order is passed without affording opportunity to the petitioner and without following the due process.

4. On the contrary, learned Standing counsel submits that the same issue was considered by this Court in similar writ petitions. This Court passed orders, rejecting the claim of the petitioners. W.P.No.14521 of 2015 was filed by the neighbour of the petitioner against whom similar allegations of encroachment on the Nala was made. The said W.P.No.14521 of 2015 was dismissed by this Court vide order dated 14.05.2015. The two other similarly situated persons filed W.P.Nos.14398 and 14410 of 2015 and both the writ petitions were dismissed by common order dated 08.09.2015 and the subject matter in the writ petition is covered by the said decisions. Learned Standing counsel further contends that the petitioner is found to have encroached on to the Nala as determined by the Revenue authorities and the present action is taken only in consequence to the findings of the

Revenue authorities.

5. Though, the subject matter is similar to earlier decisions, having regard to the contentions urged in the course of hearing by the learned counsel for the petitioner, the pleadings in the affidavit are seen and contentions of petitioner are tested to see whether the case of petitioner is not similar to those cases. According to the averments in Para No.5 of the affidavit, it is contended that no Nala was flowing through the petitioner's land. Similarly it is contended in Para No.8, that without considering the factual position whether the Nala is flowing through the petitioner's land or not, the 2nd respondent passed the impugned order. It is also contended in Para No.6 that no due opportunity was afforded to the petitioner before passing the order by the respondent-Corporation on 08.05.2015.

6. Except making a vague averment that no Nala is flowing through the petitioner's property, no material is brought on record to substantiate the said claim. When the Municipal Corporation issued notice on 24.04.2015, the Corporation specifically directed the petitioner to file all the relevant documents to substantiate the claim that title validly passed on to the petitioner and it is purely a private land. As seen from the order passed on 08.05.2015 no link document was filed before the Municipal authorities to show that title was validly vested in the vendor of the petitioner and validly passed on to the petitioner. Whether any explanation was filed by the petitioner is not clear from the reading of the affidavit and no copy of the explanation is filed in this writ petition.

7. It is appropriate to notice that the petitioner filed W.P.No.27004 of 2014 aggrieved by the alleged dispossession. The said writ petition was considered along with two other writ petitions. When the matter was taken up, it was represented on behalf of the Revenue Department that the respondents would follow due process against the petitioners and a detailed report was called from the Tahasildar, Hanamkonda, about the encroachment on the Nala by the petitioner and only after the inspection is carried out by the Tahsildar, it revealed such encroachment of the government land and accordingly steps were taken and after putting the petitioner on notice and after following the due process of law, the order of eviction would be passed. Recording the same, the said writ petition was disposed of by order dated 08.10.2014 directing the revenue authorities to follow the due process before taking adverse action.

8. As seen from the order dated 08.05.2015, the Revenue authorities have conducted verification and found that Nala is being encroached affecting the people living in the surrounding places. This finding of the Revenue authorities is the basis for taking action by the respondent-Municipal Corporation. No material is brought on record to show that no Nala is flowing in the area. Even the averments in the affidavit are vague saying that no Nala is flowing from the property of the petitioner, though the report of revenue authorities is clear that Nala is flowing in the area adjacent to the property of the petitioner. Though learned counsel for the petitioner tenaciously made submissions contending that no Nala is existing in the area, the said contention is not supported by any material brought on record.

9. A reading of the order dated 08.05.2015 discloses that after following due process the revenue Authorities found that Nala was encroached and accordingly the revenue authorities requested the municipal corporation to take further action to remove the encroachments, since the properties are falling within the jurisdictional units of the respondent-Corporation.

10. In W.P.Nos.14398 and 14410 of 2015, the issue of granting sufficient opportunity of hearing before passing orders was considered in detail and rejected the said contention. This Court held that in the facts of the case, there was no illegality in the procedure followed by the respondent-Corporation warranting interference.

11. In the facts of this case, no new material is brought on record to show that the petitioner is entitled to the relief as claimed and the petitioner is not similarly situated to persons as in the earlier writ petitions which were already dismissed. Hence, I see no merit in the writ petition.

12. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

P.NAVEEN RAO,J

29th September, 2015.

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