

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.22140 of 2011

Between:

Kandanuru Sai Baba

PETITIONER

AND

1. The District Collector, Nellore, SPSR Nellore District and another.

RESPONDENTS

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue (A.P.) for respondents. With the consent of both the parties the writ petition is disposed of at the admission stage itself.

The present writ petition is filed seeking issuance of Writ of Mandamus declaring the action of the respondents in trying to dispossess the petitioner from 33 ankanams and 37 sq. feats of vacant house site in Sy.No.317-3, situated at Naidupeta Village and Mandal, SPSR Nellore District without issuing any notice, as arbitrary and illegal.

The averments in the writ petition show that the petitioner is the absolute owner and possessor of the land admeasuring 33 ankanams and 37 sq. yards of vacant site situated in Sy.No.317/3, of Naidupeta Village and Mandal, SPSR Nellore District. He claims to have purchased the same under a registered sale deed dated 19.03.1993 from the general power of attorney of Bommi Ramanamma, W/o. Bommi Ramalingaiah Chetty. It is stated that the respondents and their subordinates visited the site of the petitioner on 29.07.2011 and made efforts to measure the vacant site. They further directed the petitioner to remove fencing and tried to dispossess him from his house site without following the due process of law. Hence the present writ petition is filed.

A counter affidavit came to be filed by the 2nd respondent-Tahsildar, Naidupet Mandal, denying the averments made in the writ petition. It is specifically stated in the counter that one Smt. K. Rajani and other residents of Moogambika street and Sundara Remireddy Nagar area in 2nd Ward of Naidupeta Gram Panchayat have submitted a representation to the Joint Collector, stating that there are about 100

families residing in Moogambika Street and Sundara Ramireddy Nagar area; that they used to go to vegetable market and to the bazaar through the vacant site in Sy.No.315/1 and 317/1 which is canal poramboke, for the last 20 years. It is further stated that some persons have occupied the site used by the public and fixed the fencing by closing the way. It is also stated that the site was surveyed by the Mandal Surveyors of Naidupeta and Gudur accompanied and supervised by the Deputy Inspector of Survey, Gudur and thereafter demarcated the same. It is further stated that Sy.No.316 & Sy.No.317 belong to Vinnamala Village of Naidupeta Mandal, and the same is not in Naidupeta Village. It is respectfully stated that the site belonging to the writ petitioner is in Sy.No.317 which is untouched by the official respondents.

A reading of the counter would show that the respondents have not caused any harm nor interfered with the possession of the petitioner's site in Sy.No.317/2 of Naidupeta Village.

A reply affidavit is filed denying the survey said to have been conducted by the respondents. It is stated that the respondents without conducting any survey and without issuing any notice to the petitioner have removed the fencing in arbitrary manner.

However, the learned counsel for the petitioner submits that survey has to be conducted in so far as the land in Sy.No.317 is concerned so that there will be clear demarcation of the land belonging to the Government.

Without going into the merits of the case, and having regard to the circumstances of the case the writ petition is disposed of by directing the 2nd respondent to conduct fresh survey if fresh application is made by the petitioners after paying necessary fees, and fix the boundaries within a period of eight weeks from the date of receipt of a copy of this order. It is needless to mention that the 2nd respondent shall give a notice to the petitioner informing him about survey. The petitioner shall cooperate with

the survey to be conducted by the 2nd respondent. Till the survey is conducted and the vacant site in Sy.No.317/3 belonging to the petitioner is demarcated, the respondents shall not take any coercive steps without following due process of law.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

JUSTICE C. PRAVEEN KUMAR

13th July, 2015
Js.