

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.5745 of 2010

Dated : 04.02.2015

Between:

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Pondugula Tirupathi Reddy,
S/o.Jagga Reddy, Aged 56 yrs,
Occu : Cultivation, R/o.Vunnaguravaipalem,
Podili Mandal, Prakasam District.

.. Petitioner

And

The Tahsildar, Podili Mandal,
Prakasam District & 3 others

.. Respondents

This Court made the following :

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ORDER :

The petitioner claims to be the owner of land to an extent of Ac.0.90 cents in Survey No.82/4 of Kambalapadu Village, Podili Mandal, Prakasam District. Adjacent to the land of petitioner, an extent of Ac.0.23 cents, classified as Topu Poromboke belongs to the State. This piece of land is on the road leading from Podili-Markapur. The petitioner claims to be in possession and enjoyment of the said Poromboke land and this piece of land is the only way through which he can ingress and egress from the road. The petitioner was carrying on the business of manufacturing cement bricks in the said piece of land. Having come to know that some other persons were trying to knock away this land, and as the petitioner is the person who is entitled to assignment, on payment of market rate, the petitioner claims to have issued two legal notices dated 23.02.2010 and 03.03.2010. Alleging that there is no response to the said notices, and on the contrary the assignment of land to some other persons was under active consideration, the petitioner instituted this writ petition.

2. This Court by order dated 12.03.2010 directed the respondents not to interfere with the possession and enjoyment of the petitioner with respect of Ac.0.23 cents of land in Survey No.82/5 of Kambalapadu.

3. Praying to vacate the said interim order W.V.M.P.No.3180 of 2010 along with the counter affidavit in the writ petition is filed by the State.

4. When the said W.V.M.P., is taken up for consideration learned counsel for the petitioner and the learned Assistant Government Pleader, requests for disposal of the writ petition.

5. Learned counsel for the petitioner contends that the land in issue is adjacent to the land owned by the petitioner and this is the only

piece of land through which he can ingress and egress. Furthermore, he is in possession and enjoyment of the said land and if the land is not allotted to him and assigned to any other person it would cause grave hardship and suffering to the petitioner.

6. Learned Counsel further submits that the Board Standing Order No.10 provides for allocation of assigned land which prescribes preference among the landless poor applicants. Further sub-clause (5) provides that :

“Isolated plot of land not exceeding 25 cents of wet or 50 cents of dry contiguous to and necessary for the convenient enjoyment of the lands privately owned by adjoining ryots can be assigned to them on full payment of market value even if such person is not a landless poor.”

7. Learned Counsel therefore, submits that the petitioner qualifies to take advantage of the said provision and that the petitioner is willing to pay the market rate on the said extent of land.

8. Learned Assistant Government Pleader submits that initially there was a proposal to assign land to Vivekananda Education Society who wanted to establish an Education institution in the said land. Proposals were submitted to the District Collector on 17.02.2010. He further submits that the petitioner is not a poor person. He owns Ac.10.14 cents in Survey No.110 of Dondleru Village of Podili Mandal and Ac.2.11 in Survey No.178-1 of Mallavaram Village of Podili Mandal. At no point of time the petitioner has approached the competent authority seeking for allocation of land except issuing two legal notices.

9. Learned counsel for the petitioner submits that the said proposal for assignment to Vivekananda Education Institution was rejected by the District Collector vide letter dated 17.04.2010 pointing out the deficiencies in submitting the proposals and therefore, the Society has purchased the land elsewhere and constructed Education Institution and the said institution no more required assignment of said land.

10. The fact that the land is classified as Topu Poromboke and is a

Government land is not in dispute. The fact that the petitioner cannot be classified as landless poor is also not disputed. The only basis for the petitioner to claim is that the land in Survey No.82/5 is adjacent and is abutting the road leading from Podili-Markapur. Except the fact that it is adjacent land to the petitioner's property, there is no legal basis for the petitioner to claim compulsory assignment of land in his favour even on payment of market rate. The property of the State can not be alienated by choice or nomination. For any reason the State do not intend to keep the property, an open offer has to be made calling willingness of all persons interested to buy. Only the highest bidder in an open auction conducted in a transparent manner can purchase. No public property can be assigned/given to any person by way of nomination or on the basis of a request made individually even on his offer to pay market price. Even if the State wants to part with the property, such parting should be as per the prevailing value in the open market but not based on book value.

11. In matters concerning alienation of lands vested in the State, no mandamus can be issued to the State to part with the land in favour of a particular person. Thus, the relief sought by the petitioner cannot be granted and is liable to be dismissed.

12. Accordingly, the writ petition is dismissed. There shall be no order as to costs.

13. Miscellaneous petitions, if any, pending in this Writ Petition shall stand dismissed.

P.NAVEEN RAO,J

4th February, 2015
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