

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.21460 of 2002

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Between:

1. Kallappa and others.

PETITIONERS

AND

1. The Director of Survey, Settlement and Land Records, A.P., Hyderabad
and others.

RESPONDENTS

ORDER:

This writ petition is filed questioning the proceedings No.N2/3221/2002, dated 28.08.2002 issued by the 1st respondent-Director of Survey, Settlement and Land Records.

The case of the petitioners is that the survey was conducted in the year 1994 pursuant to the directions given by the Land Grabbing Court and based on the same

a sum of Rs.75,000/- was paid by the petitioners and the same has been accepted by the Government. In that view of the matter there was no occasion for the respondent-authorities to deny the survey which was conducted on 01.06.1994 and cancel the same in the year 2002. On the other hand, the counter filed by the 1st respondent categorically state that originally pursuant to the application dated 03.03.1993 made by the petitioners a survey was conducted on 02.08.1993 and demarcation was done on 03.08.1993. No reply affidavit is filed by the petitioners to the specific averment in the counter affidavit.

Though the learned counsel for the petitioner vehemently contended that the same is not correct and he requests this Court to summon the record, I am unable to accede to the said request in the absence of any reply affidavit filed by the petitioners in response to the counter filed as long back as on 15.04.2004. Further it is also a matter of fact that the predecessors in title of the petitioners had filed suit in O.S.No.4847 of 2001 on the file of XII Junior Civil Judge-cum- Principal Rent Controller, City Civil Court, Hyderabad, seeking perpetual injunction against the respondent-authorities and the same was dismissed through the judgment and decree dated 7.11.2005, as against which, the petitioners filed A.S.No.663 of 2005 in the Court of III Additional Chief Judge, City Civil Court, Hyderabad and the same was also dismissed on 19.07.2007. It is also an admitted fact that as against the said judgment and decree dated 19.07.2007, the petitioners filed Second Appeal No.100 of 2008 and the same is pending.

I had called for the record in S.A.No.100 of 2008. On perusal of the same, it is discernible that the survey reports were the subject matter in O.S.No.4847 of 2001 and the lower Court had taken note of the pendency of the writ petition. In that view of the matter, any order that may be passed in the writ petition would prejudice to parties. The petitioners had ample opportunity before the Trial Court to question the validity or otherwise of the survey report dated 03.08.1993 by calling for records and disbelieve the same. As they have not done so they cannot maintain parallel proceedings before the High Court by invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

For the above reasons, the writ petition is devoid of merit and the same is liable to be dismissed and is dismissed. However considering the submission made by the learned counsel for the petitioner that the very occupation came to be

regularized on receipt of requisite amount, this order shall not be construed as expressing any opinion with regard to regularization. No costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

CHALLA KODANDA RAM, J.

4th June, 2015

Js.