

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 2928 of 2011

ORDER:

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The present writ petition came to be filed seeking issuance of a writ of mandamus declaring the action of the third respondent in trying to dispossess the petitioner from the land admeasuring Ac.1.10 gts. in Sy.No.124/23 situated at Mangalpally Village, Ibrahimpatnam Mandal, Ranga Reddy District and the action of the fourth respondent in erecting a sign board in the said land stating that the said land belongs to Hyderabad Metropolitan Development Authority, as illegal, void and contrary to the principles of natural justice.

The averments in the affidavit filed in support of the writ petition are as under:

The petitioner claims to be the absolute owner and possessor of the land admeasuring Ac.1.10 gts., in Sy.No.124/23 situated at Mangalpally Village, Ibrahimpatnam Mandal, Ranga Reddy District. It is stated that the petitioner purchased the said land from the pattadar by name Faiz Mohammed Habeeb through registered sale deed bearing document No.6753 of 1979 dated 15.11.1979. It is the case of the petitioner that the lands in Sy.No.124/23 situated at Mangalpally Village are neither classified as government lands nor assigned lands in any of the revenue records. The certified copy of the pahani patrika furnished by the Tahsildar, Ibrahimpatnam would show that the lands in question are patta lands. While things stood thus, the revenue authorities attached to Ibrahimpatnam division came to

the land of the petitioner on 01.01.2011 and demanded her to vacate the land as the land in her possession is a government land. They also threatened her stating that if she fails to hand over the land, they would forcibly evict her without following due process of law. The averments in the affidavit also show that on 10.02.2011 the staff attached to the fourth respondent visited the site and erected a sign board reading as "this land belongs to Hyderabad Metropolitan Development Authority". Challenging the action of the respondents in trying to evict the petitioner without following due process of law, the present writ petition came to be filed.

Respondent Nos.3 and 4 filed counters denying the averments made in the writ petition except those which are specifically admitted by them. It is stated in the counters that as per the pahani for the year 1960-61, land admeasuring Ac.172.18 gts., situated in Sy.No.124 of Mangalpally Village is classified as "Kancha Poramboke (Government Land)". The above government land was assigned under Special Laoni Rules in favour of the landless poor persons and their names were implemented in revenue records through faisal patti for the year 1965-66. The land admeasuring Ac.2.15 gts in Sy.No.124/23 was assigned to

Mohd. Hussain S/o. Ghouse. As per the government orders, the lands assigned shall be heritable but not alienable where as the assignee sold the assigned land through registered sale deed thereby violating conditions of arrangement as per Section 4 (b) of the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act 9 of 1977. Hence, a notice in Form No.1 was issued to the assignee and also to the purchaser by the Mandal Revenue

Officer, Ibrahimpatnam vide Ref.No.B/1549/2005 dated 14.03.2005 and after due enquiry the land was resumed to government vide Proc.No.B/1549/2005 dated 12.06.2006. Aggrieved by the said order, neither the assignee nor the purchaser, preferred any appeal before the Competent Forum and as such the said order has become final. After resuming the land into government custody the same was allotted to the Hyderabad Metropolitan Development Authority for establishment of Truck Parking which is located near to Outer Ring Road and possession was also handed over to the fourth respondent under a cover of panchanama dated 16.10.2007. In view of the above, it is stated that the land in question is a government land and the same was resumed and handed over to Hyderabad Metropolitan Development Authority, who inturn erected a sign board in the said land indicating the vesting of title with them. Thus, it is stated that the allegations made in the affidavit that the petitioner is in possession of the land even as on today is totally incorrect.

The question that arises for consideration is whether the land which is subject matter of the dispute in the present writ petition is a government land or whether it is a patta land.

The counsel for the petitioner placed on record a sale deed dated 15.11.1979 executed by one Faiz Mohammed Habeeb in favour of the petitioner, wherein he claims to be the owner and pattadar of land admeasuring Ac.7.13 gts in two survey numbers 124/22 and 124/23 situated at Mangalpally Village.

The material which has been placed by the counsel for the petitioner would show that vide document No. 808 of 1971 one Md. Ismail is alleged to have executed a document on 23.10.1970 in favour of Faiz Mohammed Habeeb (vendor of the petitioner) in

respect of land admeasuring Ac.4.38 gts in Sy.No.124/22 and one Mohd.Hussain is alleged to have executed a document on 03.10.1970 in respect of land admeasuring Ac.2.15 gts., in Sy.No.124/23. Thereafter Faiz Mohammed Habeeb is said to have executed a sale deed on 15.11.1979 in favour of the writ petitioner. In the said sale deed the vendor claims himself to be the absolute owner and possessor of land admeasuring Ac.7.13 gts in two survey numbers. A portion of land admeasuring Ac.4.38 gts in Sy.No.124/22 was purchased from Mohd. Ismail vide document No. 808/1970 and Ac.2.15 gts in Sy.No.124/23 was purchased from Md. Hussain, S/o. Gouse vide document dated 03.10.1970. The sale deed dated 15.11.1979, which has been filed before the court, does not indicate the number of the document through which the vendor of the petitioner purchased land admeasuring Ac.2.15 gts. in Sy.No.124/23 and the sketch annexed to the sale deed does not anywhere refer to the existence of the land in Sy.No.124/23. Further, a reading of the sale deed would indicate that the vendor sold a portion of land measuring Ac.1.10 gts in Sy.No.124/23 to the petitioner for a consideration of Rs.3,750/-. If really the sale deed was with regard to transaction in Sy.No.124/23 the sketch should have clearly demarcate the said land with boundaries. Strangely, as stated earlier, the sketch which has been annexed to the sale deed does not anywhere refer to the existence of Sy.No.124/23. If really the vendor of the petitioner purchased the land in Sy.No.124/23 as stated in the affidavit, there is no reason as to how no such survey number is reflected in the sale deed. On the other hand, the Government Pleader for Revenue vehemently opposed the application contending that the possession of the land was already taken by the government and handed over the

same to the fourth respondent vide panchanama dated 16.10.2007.

Since there is clear dispute with regard to the title over the property and as the issue involves disputed questions of fact, the same cannot be dealt with in an application under Article 226 of the Constitution of India. Hence, I see no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed, leaving it open to the petitioner to avail the remedy available under law, if permissible. It is made clear that any observations made in the order are only for the purpose of dealing the case on hand and the same shall not influence the authority or Court dealing with this issue in further. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

01.09.2015
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