

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 26540 of 2011

ORDER:

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With the consent of both the parties, the main writ petition is disposed of at the admission stage.

Heard learned counsel for the petitioner and Government Pleader for Revenue.

The present writ petition is filed seeking issuance of a writ of mandamus declaring the action of the respondents in interfering with the peaceful possession and enjoyment of the petitioner's land bearing premises No. 10-4-13/11/B admeasuring 250 square yards in Sy.No.16/1, Mallepally, Nayabasthi, Masabtank, First Lancer, Hyderabad, by erecting display board that it is a Government land, without there being any prior notice and not following due process of law, as illegal, arbitrary and violative of principles of natural justice; and consequently direct the respondents to remove the sign board which was erected by them in the above said land.

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

The petitioner claims himself to be the actual owner and possessor of land bearing premises No. 10-4-13/11/B, admeasuring 250 square yards in Sy.No.16/1, Mallepally, Nayabasthi, Masabtank, First Lancer, Hyderabad by virtue of gift deed dated 07.11.1991. It is stated that from the date of execution of gift deed, the petitioner is in possession and enjoyment of the same. It is stated that the donor of the petitioner purchased the house bearing No. 10-4-13/11/B admeasuring 8692 square yards vide registered sale deed bearing document No. 1311/1969 dated 30.05.1969 for a valuable consideration and out of which he gifted land admeasuring 250 square yards in favour of the petitioner. It is stated that the donor of the petitioner has been paying taxes to the municipal authorities from the date of purchase in the form of the open land tax and property tax. While things stood thus, the first

respondent is alleged to have erected a board in the site stating that it is a government land. Questioning the action of the first respondent, the present writ petition is filed.

Respondent No.3 filed his counter stating that the land admeasuring 665.86 square meters in T.S.No.29, Block-D, Ward 36, correlated to old Sy.No.15 of Mallepally village is classified as G.Non ISF land and is vacant on ground. Out of the said TS, an extent of 235 square yards was allotted for construction of Tribal Welfare Hostel Building, by the first respondent. Accordingly, a sign board was erected in the said land long back to avoid trespassing or encroachments. The averments in the counter further indicate that the petitioner has nothing to do with the land in question though the writ petitioner in his affidavit mentioned that the sign board is erected in Sy.No.16/1 of Mallepally Village. Therefore it is contended that the land which is now sought to be claimed by the petitioner is not in Sy.No.16/1 and it is in Survey No.15 of Mallepally Village. The averments in the counter also discloses that after promulgation of Andhra Pradesh (Telangana Area) Jagir Abolition Regulation Act of 1358 Fasli Mallepally Village Jagir was abolished under Notification No.49, dated 24.09.1949 and Mallepally Jagir Administration was transferred to the Government at the time of abolition of the Jagirs. The entire extent of land was taken possession and the land which the petitioner is claiming now is under the management and control of the first respondent. In view of the above, it is submitted that the question of evicting the petitioner from the land does not arise.

As seen from the averments in the writ petition and also in the counter filed by the Government Pleader there is a dispute with regard to the ownership of the land. On one hand the petitioner says that he is in possession of the property by paying property tax, but whereas the Government in the counter states that long prior to the date of filing of the writ petition the land was taken over by the Government and it is in the possession of the first respondent. As stated earlier, the Government Pleader placed on record a copy of the Town Survey Register, to show that the land which is subject matter of challenge falls in Sy.No.15 and that the petitioner has no right over the said land. Since the issue involves dispute

over the title, it may not be proper for this Court to decide as to who is the owner of the land and also as to who is in possession of the property. Hence, this Court is of the view that there are no merits in the writ petition.

Accordingly, the writ petition is dismissed, leaving it open to the writ petitioner to seek redressal by approaching the civil Court. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

28.07.2015

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