

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.37247 of 2012

Date:26.8.2015

Between:

Polasa Sharada,
W/o Polasa Kondaiah

..... **Petitioner**

And:

The Executive Engineer, Irrigation & CAD
Department, Karimangar District and
two others.

.....**Respondents**

Counsel for the Petitioner: Mr. P.Giri Krishna

Counsel for the Respondents: AGP for Irrigation & CAD (TS)

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to set aside notice No.Dy.E.E/SD1/Divn4/LMD/1848, dated 30.3.2012, of respondent No.2, whereunder he has called upon the petitioner to vacate a part of land in her occupation in Survey No.214 of Chintakunta Village sivar, Karimnagar Mandal and District.

I have heard learned counsel for the parties and perused the record.

The petitioner claims to be the owner of land admeasuring 1,452 square yards in Survey No.214 of Chintakunta Village, Padmanagar Gram Panchayat, Karimnagar Mandal and District. Under the impugned notice, respondent No.2 informed the petitioner that as per the site condition and +920 feet FRL (Full Reservoir Level) contour line, she has encroached upon the Government/SRSP land. After the said notice was issued,

survey was conducted at the instance of the Irrigation Department and the Surveyor has submitted his report, dated 02.11.2012, to the Special Deputy Collector, L.A.Unit-VI, Dr.B.R.Ambedkar, PHC, SSP, LMD Colony, Karimnagar, wherein it is stated that an extent of Ac.0.20 guntas occupied by the petitioner in Survey No.214/1 does not fall within the affected/acquired area.

In the counter-affidavit filed by respondent No.1, it is averred that the calculations submitted by the Surveyor revealed that he has taken Acs.1.14 guntas as the land acquired by SRSP as against Ac.1.31 guntas actually acquired and in the phodi (sketch) map was prepared based on the said extent and that in view of these discrepancies, the Superintending Engineer has addressed letter, dated 01.01.2013, to the Assistant Director, Survey and Land Records for making arrangements for conducting a fresh survey of the acquired lands in Survey No.214 of Chintakunta Village and clarify the above-mentioned discrepancies, but till date, no report is stated to have been filed.

The counter-affidavit, however, admitted that the petitioner has already constructed a Function Hall in the said Survey number and that, with due regard to the interim order granted by this Court, the respondents have not been interfering with her possession of the same.

As there is a serious dispute with respect to the alleged encroachment of the Irrigation Department's land by the petitioner, and the respondents have been disputing the correctness of the survey report, it is appropriate that a comprehensive survey is conducted. The respondents are, therefore, directed to take all necessary measures to get a fresh survey conducted by the Survey Department, after notice to the petitioner. The survey report that may be given by the Survey Department shall be supplied to the petitioner. If the fresh survey report reveals that the petitioner is in occupation

of the Government land, the respondents shall follow due process of law, viz., initiation of appropriate proceedings under the relevant enactment for her eviction. Till such procedure is followed, the respondents shall not interfere with the petitioner's possession and enjoyment of the subject property, which is claimed to be constructed in the Government land.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.47262 of 2012 is disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*26th August 2015
DR*