

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.13012 OF 2011

ORDER:

A registered Welfare Association represented by its Vice President K.Ravi Kumar, filed the present Writ Petition under Article 226 of the Constitution of India seeking issuance of writ of Mandamus declaring the inaction of the respondents 1 to 3 in not issuing house pattas infavour of its members who are in peaceful possession and enjoyment of small extents of houses sites admeasuring 80 sq. yards in Survey No.55/1 at Ramdevguda, Ibrahim Bagh, Golconda, inspite of making representations, as illegal and arbitrary.

The averments in the affidavit filed in support of the Writ Petition show that the petitioner is a registered Association vide Regd. No.607/2010 and there are 54 members in the Society. All of them are poor and houseless persons belonging to Scheduled Caste and Scheduled Tribe community, eking out their livelihood by doing daily wage labour. The members of the petitioner-Association occupied small extents of house sites in Survey No.55/1 at Ramdevguda, Ibrahim Bagh, Golconda, Hyderabad District. It is their case that since 60 years they have been staying there, erected small houses, having electricity and water connection. It is their

case that Municipal Corporation of Hyderabad has also allotted house numbers to respective houses apart from giving ration and voter cards. The averments in the affidavit show that time and again the petitioner-Association was representing before the Authorities for issuing house site pattas but the same was being dodged on one pretext or the other. It is averred that the Government is taking all measures for providing house sites under various schemes, but respondents 4 to 6 who claims to be the owners of the land are trying to get them evicted by demolishing their houses. The averments in the affidavit filed would further show that criminal cases came to be registered against respondents 4 to 6 and their associates vide Crime No.97 of 2010 in Golconda P.S., Hyderabad and Crime No.520 of 2008 in Golconda P.S., and Crime No.1 of 2009 in Golconda P.S., for various offences under the Indian Penal Code. The Action of the respondents 4 to 6 in trying to demolish their houses made the petitioner-Association to give a representation to the respondents 1 to 3 on 11.04.2011 with a request to issue house site pattas to all the members so as to enable them to protect and safeguard their possession in respect of their respective houses. The inaction of Respondents 1 to 3 led to filing of the present Writ Petition. Various documents are also filed along with the Writ Petition showing their possession.

Respondents 4 to 6 filed common counter denying the averments made in the Writ Petition. Along with the counter affidavit they filed a bunch of material papers to show the litigation pending in respect of the said land. It is stated that the request of the writ petitioner-Association namely the issuance of pattas in survey No.55/1 cannot be granted as it is not a Government land but a patta land belonging to respondents 4 to 6. According to them, their ancestor late Maniram was the pattadar of the land in Sy.No.55 admeasuring Ac.18.33 gts., at Ramdevguda village. The respondents 4 to 6 and other family members are the heirs of late Maniram. Out of the said land, about Ac.16.20 gts was acquired for Army Artillery centre and compensation was paid to the owners. Out of the remaining lands Ac.2.13 gts., an extent of Ac.0.10 gts., was occupied by electricity department and a small extent of land was affected in village road connecting the main road. It is stated that at present they are left with balance land of about 400 sq. yards and in the said portion of the land they have constructed houses and shops which was assessed by the Municipal Corporation of Hyderabad. While things stood thus, the Authorities have issued a notification bearing No.372 dated 07.08.1998 under Sec.3(1) of the A.P.Slum Improvement (Acquisition of land) Act, 1956 notifying the land as slum area. Another Gazette notification under Section 3(2) of the said Act vide

notification No.492 dated 18.11.1998 was also issued. Questioning the same, the respondents filed W.P.No.2130 and 6253 of 1999 and this Hon'ble Court after hearing all the parties, allowed the said Writ Petitions and set aside the notifications. The Court permitted the respondents herein to file their objections to the preliminary notification dated 07.08.1998 issued under Section 3(1) of the said Act. It is stated that on 18.11.2002 the respondents filed their objections. As there was no response to the objections filed, W.P.No.23101 of 2010 came to be filed seeking to set-aside preliminary gazette notification No.372 issued under Section 3(1) of the said Act. In the said Writ Petition the petitioner herein impleaded himself as Respondent No.7 and contested the matter. The said Writ Petition was disposed of on 28.04.2014 directing the official respondents to consider their objections and dispose of the same. It is stated that till date no final orders are passed on the objections raised. It is averred that some strangers were trying to occupy a portion of the land by erecting temporary structures, the respondents filed O.S. No.658 of 2011 on the file of the IV Senior Civil Judge, City Civil Court, Hyderabad, which is still pending. The petitioner herein filed O.S. No.3104 of 2011 on the file of XXII Junior Civil Judge against the respondents 4 to 6 seeking injunction in respect of land admeasuring 1721 sq. yds., out of 3310 sq. yards in Sy.No.55/1 Ibrahimbagh,

Golconda Mandal, Hyderabad, which is also pending before the concerned court. It is stated that the allegations made in the Writ Petition that the petitioners are all daily wage workers is incorrect. As per the counter the members of the Society are all working in Central and State Governments. It is stated that since the land in Sy.No.55/1 is not slum area, the members of the petitioner-Association are not eligible to get any certificate under Slum Improvement Act. In view of the above, it is contended that there are no merits in the Writ Petition and the same is liable to be dismissed.

The 3rd respondent, who is the Tahasildar, filed his counter. According to them, the land in question falls in T.S.No.16, Ward 14, Block-J as per TSLR in Col.No.10 and it is recorded as Shaik Madar Sahab and in col.No.20 the names of Manneram, Rajaram, Kushal Singh, Laxman Sing and Raghunath Singh were recorded. The averments in the counter of the 3rd respondent show that out of the total extent of 3392 sq. mts, land admeasuring 3037 sq. mts was declared as slum. It is stated that as per recent survey 23 structures were raised and most of their houses ranging from 30 to 50 sq. mts. It is further stated that pursuant to the orders passed by this Court in Writ Petition, K.Bhavani Singh and others filed an objection petition on 18.11.2002, which has been sent to

the Director, Urban Community Development, MCH, asking him to take immediate action on the same. It is stated that no reply has been received from the Director, Urban Community Development so far. A letter was also addressed to him on 14.07.2015 and 23.07.2015 reminding of the earlier communication. It is stated that as soon as the report from the Director of Urban Community Development is received, suitable action would be initiated. In view of the above, it is stated that the allegations made in the Writ Petition are created for the purpose of filing Writ Petition to get wrongful gain and as such the Writ Petition is liable to be dismissed.

On 29.11.2011, this Court issued notice before admission returnable in six weeks. Thereafter, the matter was adjourned from time to time and there is no interim order passed in favour of the Writ Petitioner either at the time of admission or at any time thereafter.

From the averments made in the Writ Petition, it is clear that there is a dispute with regard to the title over the land. The Government in its counter stated that in Column 10 of TSLR, it was recorded as Shaik Madar Sahab, and the names of Manneram, Rajaram, Kushal Singh, Laxman Singh & Raghunath Singh were recorded in Col.No.20. But, however, the name of the 4th respondent in the Writ Petition does not find place in

Column No.20 of TSLR. On the other hand, though the Petitioner-Association not only claim it to be a pattaland but however submit that they are in possession of the land by erecting houses and some shops. The averments in the counter also show the existence of some structures in the said land. Though the request of the petitioner-Association in the Writ Petition is only to consider the representation dated 11.04.2011 made to respondents 1 to 3 i.e., the District Collector, Revenue Divisional Officer and Tahasildar, Golconda but the learned counsel for the respondents 4 to 6 strenuously opposed the same. It is their apprehension that having regard to the dispute over the title and since the issue is still pending consideration before the appropriate authority pursuant to the directions given by this Court, there is every possibility of respondents 1 to 3 passing orders in collusion with the petitioner-Association. As seen from the record, pursuant to the orders passed by this Court in the year 2002, objections were submitted, but till date no orders are passed. In fact even in the year 2010 this Court directed that *“the official respondents to consider the objections submitted by the petitioners and pass appropriate orders in accordance with law, after giving notice and opportunity of being heard to all the stake holders including the petitioners and the unofficial respondent herein, as expeditiously as possible preferably within a period of*

three months from the date of receipt of a copy of this order.” Strangely no orders are passed and in fact no notice was issued fixing the date of hearing. The counter, which has been filed by 3rd respondent show that on 14.07.2015 and 23.07.2015 the Tahasildar wrote a letter to the Director of Urban Community Development, Municipal Corporation of Hyderabad requesting him to take immediate action on the objection petition filed by K.Bhavani Singh and others.

Having regard to the nature of disputes and taking into consideration the pendency of the objections made by the respondents 4 to 6 pursuant to the orders of this Court, it may not be proper for this Court to pass any orders, more so directing the respondents 1 to 3 to consider the representation dated 11.04.2011. In the circumstances of the case and having regard to the averments made in the counter and taking into consideration the pendency of the matter before the concerned Authority, it would be appropriate to advise the Director of Urban Community Development, Municipal Corporation of Hyderabad to pass orders in the matter which is pending before him as expeditiously as possible preferably within three months from the date of receipt of copy of this order.

With the above direction, the Writ Petition is

disposed of. No order as to costs. As a sequel to it, miscellaneous petitions pending if any, in this Writ Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date:01.09.2015

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