

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 38146 of 2016

ORDER:

1) Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue. With the consent of both the parties the present writ petition is being heard at the admission stage itself.

2) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in not conducting the survey and fixing the boundaries stones to the petitioner's land admeasuring Ac.14.00 cents in Sy.No.311-6 situated at Yendakuduru Village, Ghantasala Mandal, Krishna District, as illegal, arbitrary and violative of principles of natural justice; and consequently direct respondent Nos.2 to 4 to consider the representation of the petitioner dated 15.07.2016.

3) Learned counsel for the petitioner has placed before me an order dated 14.06.2013 in W.A.No.110 of 2013 wherein a Division Bench of this Court, after referring to the Government Circular Rc.No.N2/ 1741/ 2010 dt.18-05-2010, prescribing guidelines, based on Board Standing Order No.34-A paragraph 20 and proceeding in D.O.Rc.No.N1/ 4296/ 2012 dt.22-08-2012 of the Commissioner, Survey, Settlements & Land Records, Andhra Pradesh, Hyderabad in regard to the demarcation of survey numbers, opined that there is no bar for revenue officials to conduct survey of lands at request of private parties subject to their furnishing relevant documents. It specifically held that the Circular referred to above

issued by the Government permits revenue officials to conduct survey on applications of the private parties.

4) The learned Government Pleader for Revenue appearing for respondents also admitted the said fact.

5) The view expressed by the Division Bench in W.A.No.110 of 2013 has also been followed by another Division Bench in its order dt.16-07-2013 in W.A.No.1003 of 2013. Both these Division Benches have rejected the view that there cannot be survey of private lands by authorities of the Survey Department of the Government.

6) These two judgments have been followed in Golli Nagayamma and others Vs. State of Andhra Pradesh, rep. by its District Collector, Visakhapatnam and others¹.

7) Merely because there is no specific provision in AP Survey and Boundaries Act, 1923 (for short 'the Act') providing survey of private lands, it cannot be said that the authorities in the Survey Department of the State Government are prohibited from doing survey of private lands. Unless such a prohibition is provided in the Act, as public servants having expertise in doing survey (like other experts in fields of ballistics, handwriting, DNA etc.), it is incumbent on the officials of the Survey Department of the State Government to survey private lands if a request to that effect is made after collecting the necessary charges therefor. The circulars referred to above as well as other Government G.Os.

¹ (2015) 4 ALT 98

issued by the Revenue Department in this regard would be binding and would govern the procedure to be followed in respect of survey to be conducted for private patta lands as well.

8) As held by this Court in *Hyderabad Potteries Pvt. Ltd. Vs. Collector, Hyderabad District and another*², the scheme of the AP Survey and Boundaries Act, 1923 would make it clear that the survey made under the said Act is mainly intended for the purposes of identification of the land and fixation of boundaries and there is no provision under the said Act for making any detailed enquiries with regard to right, title and interest of the persons in the land. Persons who are aggrieved by any decision referred to in the survey have liberty to approach the appropriate Civil Court for adjudication, if needed. There is also a remedy under Section 11 of the said Act to the appellate authority constituted under the Act instead of Commissioner of Survey, Settlement and Land Records. As held in *Khaja Naseeruddin and others Vs. Commissioner, survey, Settlement and Land Records, Hyderabad and others*³, if survey is sought by a person, after issuing notice on parties interested and in particular the registered holders of land, the concerned official should conduct survey and demarcation in their presence.

9) The above principles are to be kept in mind and the above circulars are to be followed by the respondents while conducting survey of private lands under the Act.

² (2001) 3 ALT 200

³ (2007) 1 ALT 707

10) In this view of the matter, the Writ Petition is allowed and respondent Nos.2 to 4 are directed to cause survey for demarcating the lands of the petitioner by considering the representation dated 15.07.2016 made by the petitioner after collecting necessary charges within eight weeks from the date of receipt of a copy of this order after issuing notice to the petitioner and other affected parties and communicate his decision thereon to the petitioner. No costs.

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

07.11.2016
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JUSTICE C. PRAVEEN KUMAR

