

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.27499 OF 2007

ORDER:

The case of the petitioner is that he, his brothers and sisters are the owners and possessors of the premises behind the ESI Hospital bearing Municipal No.7-1-633, Survey No.121/1, T.S.No.2/2, Block M, Ward No.8/3, situated at Sanathnagar, Hyderabad, admeasuring to a total extent of 4000 Square Yards. Out of the said 4000 Square Yards, an extent of 1428 square yards, along with the building located therein was acquired by the Government through the Special Deputy collector, Land Acquisition General, Hyderabad, for the purpose of extension of ESI hospital by initiating the land acquisition proceedings. After acquisition, the petitioner along with his brothers and sisters was in possession of remaining extent of land admeasuring 2572 Square Yards. While so, the 1st respondent and their workmen have been interfering with the peaceful possession and enjoyment of the petitioners over the unacquired land. They have also made a false complaint to the Commissioner of Police, M.R.O.,(Tahsildar) Ameerpet Mandal and other authorities. Aggrieved by the same the petitioner made a representation before the 1st respondent on 05.04.2007 requesting him not to dump any waste material or garbage and not to cause any interference with his lands. As no action has been taken, the petitioner filed WP.No.8185/2007 and the same was disposed of on 19.04.2007 with a direction to the respondents to dispose of the representation of the petitioner. Thereafter the 1st respondent has started harassing the petitioner

by destroying the boundary marks fixed by the Land Acquisition Officer. As such, the petitioner issued a legal notice dated 20.06.2007 to the 1st respondent requesting him to fix up the boundary. As no action has been taken by the 1st respondent, the petitioner filed a representation before the respondents 2 and 3 under Section 15 of the A.P. Survey & Boundaries Act, 1923 on 26.10.2007 requesting to direct the Survey officer to repair and renew the boundary marks removed by the 1st respondent in accordance with plan prepared by the Land Acquisition Officer. As no action is being taken on the said representation, present writ petition is filed.

The 2nd respondent filed counter affidavit stating that the entire land Ac.6.34 guntas in Survey No.121 was already acquired under different land acquisition proceedings; that the claim of the petitioner that House No.7-1-633 in Survey No.121/1 and the land of 2572 Sq.Yds in Survey No.121/1 are owned and possessed by the petitioner is not correct; and that the petitioner has no land in survey No.121 of Bahaloolkhanguda village. The contention of the petitioner that he is in possession of 2572 Sq.Yards was already rejected during the course of enquiry under Section 5 A of the Land Acquisition Act in Award No.B/1870/85, dated 03.01.1991 and questioning the said award the petitioner filed WP.No.102/1989 and that this Court dismissed the said writ petition rejecting the contention of the petitioner. The petitioner suppressed the above facts. The petitioner along with others has also filed WP.No.4541 of 1993, and the same was also dismissed

by this Court by its order dated 12.04.1993 on the ground that the issue therein was the subject matter of the earlier writ petition No.102/1989 which was already dismissed. It is therefore, clear from the above orders of this Court that the matter was already decided and the petitioner has filed the present writ petition suppressing the said facts and that the present writ petition is hit by the principle of *Res Judicata* and the writ petition is accordingly liable to be dismissed.

The 1st respondent filed counter adopting the counter of the 2nd respondent.

Heard learned counsel for the petitioner, Sri B.G.Ravindra Reddy, learned counsel for the 1st respondent and learned Assistant Government Pleader for Revenue.

It is stated in the counter affidavit that the petitioner filed WP.No.102/1989 questioning the award No.B/1870/85, dated 03.01.1991, the same was dismissed by this Court. Thereafter, the petitioner along with others filed WP.No.4541/1993 and the same was dismissed by this Court on the ground that the relief sought in that writ petition is the subject matter in the earlier writ petition. All these facts were suppressed by the petitioner in the writ affidavit. Now, the petitioner again filed the present writ petition with a little bit different prayer for conducting survey. Once, the claim of the petitioner was rejected twice in WP.Nos. 102/1989 & 4541/1993, the petitioner cannot be granted any relief in the present writ petition which was filed seeking the same

relief sought in the above two writ petitions. More so, the writ petition is liable to be dismissed for suppression of facts.

In view of the above facts and circumstances, I do not see any merits in the writ petition. Accordingly, the writ petition is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending in the writ petition, shall stand closed.

16.11.2016
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A.RAJASHEKER REDDY, J

