

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.4858 of 2012

ORDER :

The 1st petitioner has filed an application on 04.11.2008 before the 2nd respondent to survey his land with reference to sale deeds under which he purchased the land.

2. When no action was taken by 2nd respondent on the said application, petitioner filed WP.No.22511 of 2009 in this Court.

3. This Court disposed of the said Writ Petition at the admission stage on 21.10.2009 directing 2nd respondent to consider the said application of petitioner, survey the land with reference to the sale deed under which the petitioner purchased the land; and pass appropriate orders thereon in accordance with law within a period of three (03) months from the date of receipt of a copy of the order.

4. Thereafter, it appears that certain notices to conduct survey were issued by the Mandal Surveyor, Rajendranagar Mandal, Ranga Reddy District.

5. On 30.09.2010, a memo Lr.No.MS/266/2010 was issued by 3rd respondent stating that on field verification,

the petitioner was not in possession of the land claimed by him; and that this was in accordance with Circular No.N1/1408/2007 dt.13.07.2007 of the Commissioner of Survey Settlement and Land Records Sub-Division.

6. On 01.10.2010, the 2nd respondent passed an order referring to the same circular, and reiterating that petitioner is not having possession over the land.

7. Assailing the same, the present Writ Petition is filed.

8. Heard the counsel for petitioners, and the learned Government Pleader for Revenue for respondent nos.1 to 4.

9. A reading of the above circular states as follows :

“5. Thereafter the Mandal Surveyor will proceed for subdivision and prepare the sub-division record. The sub-division shall be done in accordance with the description of property sale deed in case of sales, partition deed in case of partition, mutual agreement in case of succession etc. However the sub-division will be done only subject to the actual possession on ground tallying with the documents mentioned above provided that the Transferees name finds place in the Revenue accounts through proper mutation.” (emphasis supplied)

10. A reading of the above para in the above circular nowhere indicates that the possession of the person who has applied for survey is a necessary pre-condition to conduct survey. It only states that survey can be done

subject to actual possession on the ground tallying with the documents provided along with the application for survey.

11. It is clear that respondent nos.2 and 3 have misread the circular and arbitrarily declined to do the survey on untenable grounds.

12. Therefore, the proceedings in Memo No.A4/2355/2009 dt.01.10.2010 of the 2nd respondent as well as Memo No.MS/266/2010 dt.30.09.2010 of 3rd respondent are both quashed; the Writ Petition is allowed; and the 2nd respondent is directed to inspect and survey the land claimed by petitioner with reference to the documents produced by petitioner; and supply a copy of the survey report to petitioner without taking a plea that petitioner does not have possession over the said land.

13. This exercise shall be completed within a period of four (04) weeks from the date of receipt of a copy of this order.

14. The 2nd respondent shall also pay costs of Rs.2,000/- to petitioner within a period of four (04) weeks from the date of receipt of a copy of this order.

15. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-06-2016

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