

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.10005 OF 2010

ORDER:

Heard Mr.Chandrasekar for petitioner, Mr.Eshwar, Assistant Government Pleader for respondents 1 and 2 and Ms. Karuna, Assistant Government Pleader for respondents 3 and 5.

The petitioner prays for Mandamus directing respondents not to evict petitioner from agricultural land in an extent of Ac.6-00 in Survey No.74 of Mangurla Village, Jainath Mandal, Adilabad District, except in accordance with law.

The petitioner is the daughter of one Hidayath Mohiuddin Khan. According to petitioner, the said Hidayath Mohiuddin Khan was the absolute owner and possessor of an extent of Ac.28.28gts. in Survey No.74 of Mangurla village. The petitioner claims right and possession to an extent of Ac.15-00 of land under Hiba dated 06.01.1967. Respondents issued 4(1) notification for acquiring the total extent of land in Survey No.74. On 25.04.1979, Award No.B/3066/77 was passed. An extent of Ac.6-00 of land in Survey No.74 was excluded from land acquisition proceedings. Admittedly, no compensation was paid to Ac.6-00 excluded land from acquisition proceeding, therefore, ownership and possession remained with petitioner. In other words, the compensation was paid to an extent of Ac.22-28gts only. The case of petitioner is that after excluding Ac.6-00 of land, the respondents entered into lease

for an extent of Ac.3-00 and odd with petitioner. The petitioner has given land on lease and thereafter, the obligation under lease was discharged. The cause of action for filing the instant writ petition is that respondents 1 and 2 are forcibly dispossessing the petitioner from the excluded Ac.6-00 of land in Survey No.74 of Mangurla Village without due process of law. The petitioner requested for demarcation and fixation of boundaries by survey of land acquired and land excluded in Survey No.74. The same has been returned with an endorsement without actually preparing a plan and dividing Survey No.74 as referred to above.

On 28.04.2010, this Court granted interim stay of dispossession of petitioner from Ac.6-00 of land in Survey No.74. Respondents 1 and 2 filed counter affidavit and also a petition to vacate the interim order.

Respondents 1 and 2 substantially admit the ownership, acquisition, payment of compensation only to an extent of Ac.22-28gts and as regards the subject matter of the writ petition is concerned, the reply reads thus:

“It is respectfully submitted that the respondents herein are also ready for demarcation of the acquired land and the alleged land of the petitioner, as per the records. The averment of the petitioner that the respondents are trying to evict the petitioner is false and created. The petitioner and her son are trying to encroach into the acquired land of the Govt. Property, by using force and other illegal means. The respondents never tried to interfere with the petitioners land, as alleged.

It is submitted that, on 20.12.2009, the petitioner's son made attempts to trespass in the acquired part of lands in Sy.No.74 of Mangurala (V). Therefore, a complaint in that regard was filed by Dy. EE & AEE before the concerned Police Station. Subsequently, the Project Committee Chairman also lodged a complaint to the SI Jainath (M) Adilabad, and represented to the Executive Engineer, IB Division, Nirmal. Based on the letter of the Executive Engineer, IB Division, Nirmal i.e. Lr.No.EE/I & CAD Dept. IB Division, Nirmal AB/A5/1059/M dt.25.01.2010, the Tahsildar, Jainath (M) Adilabad has instructed the VRO, Mandal Surveyor, and MRI Jainath Mandal, to conduct demarcation of the lands."

From the above, it is clear that respondents 1 and 2 are not interested in evicting petitioner from excluded Ac.6-00 of land in Survey No.74. But at the same time, a grievance is made out by respondents 1 and 2 that petitioner or petitioner's son is entering into the land acquired by department for which compensation was already paid. This Court is of the view that the 4<sup>th</sup> respondent who has passed the Award ought to have prepared the field sketch showing the land acquired through the Award dated 25.04.1979 and also the land excluded from Survey No.74 to avoid disputes between the requisitioning department and petitioner. Since the request of petitioner for survey and demarcation is not attended by respondents 4 and 5, this Court is of the view that to give quietus to the dispute between petitioner and respondents 1 and 2, the writ petition can be ordered by this order:

- a) The statement of respondents 1 and 2 is placed on record and accordingly the possession of petitioner in respect of

Ac.6-00 of land in Survey No.74 shall not be disturbed or petitioner evicted except in accordance with law.

b) Respondents 4 and 5 are directed to issue notice to petitioner and respondents 1 and 2, survey and demarcate the land in accordance with the Award, fix the boundaries and communicate to both parties.

The said exercise shall be undertaken and completed within two months from the date of receipt of a copy of this order.

The petitioner is given liberty to communicate this order to respondents 4 and 5 for expeditious consideration and disposal.

The writ petition is ordered accordingly. No order as to costs.

Date:26.09.2016  
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S.V.BHATT, J