

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.32931 of 2015

Dated 05th January, 2016

Between:

Mygapula Murali

...Petitioner

And

The State of Andhra Pradesh, rep.by its Principal Secretary, Mines & Geology Department, Secretariat, Hyderabad and others

...Respondents

Counsel for the petitioner: Smt.G.Jyothi Kiran

Counsel for respondent No.1: AGP for Mines & Geology (AP)

Counsel for respondent Nos.2 & 3: GP for Panchayat Raj

Counsel for respondent No.4: Sri N.Sridhar Reddy

for Sri A.Santosh Kumar

The Court made the following:

ORDER:

The long and short of the controversy in the present writ petition revolves around the question whether the official respondents have laid any ramp over the lands belonging to the petitioner in Survey Nos.492/8, 493/1 and 493/2 between 32.900 to 33.600 kms of Vasishta Godavari River, East Godavari District to reach Gopalapuram sand reach or not.

The litigation is hanging fire on this aspect from the year 1998. By two separate orders passed in W.P.Nos.35385 of 1997 and 1197 & 3631 of 1998, this Court has held that the ramps for transportation of sand from Vasishta Godavari River, East Godavari District shall not be laid over the private lands of the petitioner and four others in Survey

Nos.492, 493, 494, 498, 494, 495, 504, 503 and 70 of Gopalapuram. For one reason or the other, since then, the dispute has not been resolved conclusively. While it is the pleaded case of the petitioner that despite the said judgments of this Court, the official respondents in collusion with respondent No.4 have laid ramp over his land, it is the pleaded case of the respondents that the ramp has not been laid over any part of the land of the petitioner.

In the counter affidavit filed by respondent No.3, it is *inter alia* stated that the ramp was laid on the Government land and also over an extent of Ac.0.22 cents in Survey No.492/7 of Gopalapuram which was acquired under the provisions of the Land Acquisition Act, 1894. The respondents have categorically denied that any part of the ramp is laid over the petitioner's land in Survey Nos.492/8, 493/1 and 493/2. Indeed, it is specifically averred that the present ramp is in existence over Acs.3.10 cents in Survey No.65, Ac.0.22 cents in Survey No.492/1 and Ac.0.15 cents in Survey No.492/6 and that even the recent survey held by the revenue authorities has confirmed this fact.

At the hearing, Smt.G.Jyothi Kiran, learned counsel for the petitioner, submitted that the purported survey referred to in the counter affidavit of respondent No.3 was held behind her client's back and that he had no knowledge of the same.

The entire controversy persisting for more than two decades could be put to an end if a proper survey is held in order to verify whether any part of the ramp is laid over the lands of the petitioner in Survey Nos.492/8, 493/1 and 493/2. It is not disputed on behalf of the respondents that the petitioner was not present when the survey was held. Therefore, it is in the interest of justice that a fresh survey is held in the presence of the petitioner.

Respondent No.3 is, therefore, directed to get a survey held in the presence of the petitioner. For this purpose, the District Collector, East Godavari District shall ensure that the Lanka Surveyor, who is stated to be the competent person to hold survey, is made available for

such survey. Respondent No.3 shall cause notices issued to the petitioner and the authorised representative of respondent No.4 at least one week in advance and get the survey conducted by the Lanka Surveyor. It is made clear that if either the petitioner or the authorised representative of respondent No.4 is not present on the date of the survey, the survey shall be gone ahead irrespective of their absence. After completion of the survey, the result thereof based on the survey report shall be communicated to both the parties. This entire exercise shall be completed within a period of one month from the date of receipt of a copy of this order. The right of the respondents to use the ramp shall depend upon the result of the survey.

Subject to the above directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, WP.M.P.No.42502 of 2015 and WV.MP.Nos.3870 & 4451 of 2015 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

05th January, 2016
VGB