

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.11821 of 2013

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue.

The petitioner herein is a registered association, which claims to be in possession of the subject land which is used as a burial ground for Gangaputra Community located in Survey Nos.16, 17 and 18 (part) of Bholakpur, Hyderabad, since 1961. On 10.04.2013, when the staff of the Tahsildar, Secunderabad, the 3rd respondent, along with R & B authorities came to the land and started demolishing compound wall and tombs inside on the ground that the land was required for extension of adjacent school, alleging that steps are being taken to acquire part of the graveyard to the school, the present Writ Petition is filed.

The petitioner claims that an extent of 2370 sq. meters of land in T.S.No.3/2, Block L, Ward No.111 and an extent of 270 sq. meters of land in T.S.No.3/3, Block L, Ward No.111 are being utilised for graveyard. It is stated that a representation dated 15.04.2013 was made before the District Collector, Hyderabad, the 1st respondent, to stop the acquisition of part of the land of the graveyard by stopping the demolition work. However, no action was taken by the 1st respondent on the said representation.

On 18.04.2013, while admitting the Writ Petition, this Court granted interim stay as prayed for.

The 3rd respondent has since filed a counter affidavit along with an application seeking vacation of interim stay. At this stage, I have

heard the main Writ Petition itself.

The counter affidavit states that the petition schedule property is identified on the ground that it falls in T.S.No.3/2 P Block L, Ward No.111 correlated to Survey No.16/P to an extent of 494 sq. meters situated at Bholakpur Village, Secunderabad Mandal, Hyderabad District, and it is vacant on the ground and total extent shown in Column No.17 is 2370 sq. meters and recorded in Column No.20 as 'Graveyard'. It is stated that land to an extent of 494 sq. meters was fallen vacant and the rest of the entire land was covered by old structures. It is also stated that the vacant land is notified by erecting the Government Sign Board and is entered in the Land Bank Register.

The counter affidavit further states that on 25.06.2012, the Corporator of Ward No.145, Padmaraonagar requested the 1st respondent to allot the above piece of Government land, which is adjacent to the Government Primary School, for playground to the school and enquiry was conducted on the said request and the 1st respondent vide letter No.E5/6745/2012 dated 24.07.2012 called upon the Revenue Divisional Officer, Secunderabad, the 2nd respondent, to send proposals for change of classification and vide proceedings dated 26.07.2012 directed the 3rd respondent to handover advance possession of the vacant land to an extent of 494 sq. meters for construction of playground for the school. Accordingly, the vacant land was stated to have been handed over to the Deputy Education Officer, Secunderabad Zone on 28.07.2012 under a cover of panchanama. It is further specifically stated that on field inspection, it was noticed that the petitioner tried to encroach the above Government vacant land and only that attempt has been stopped. It is further stated that only Government land is being allotted

for the playground of the primary school and there are no structures and a location map is also enclosed with the counter affidavit together with the copy of Town Survey Extract, a copy of the panchanama and the orders of the 1st respondent, referred to above.

While learned counsel for the petitioner states that it is the part of the graveyard and tombs inside are being demolished, the said allegation is denied by learned Government Pleader for Revenue, who submits that the vacant land which is notified as Government Land is allotted to the school leaving the rest of the area of the graveyard intact. The sketch appended to the counter affidavit clearly shows covered structures in T.S.No.3/2 which apparently is not interfered with but vacant land in T.S.No.3/2 P is allotted. The petitioner has not substantiated his averments that the said T.S.No.3/2 P is also part of the graveyard as no documents are produced by him in support of his claim nor he is able to substantiate that there are any tombs in T.S.No.3/2 (Part). According to the counter affidavit, that part is a vacant land already notified as Government land and kept in the Land Bank Register. Hence, it is not established that the respondents have in any manner interfered with the land admeasuring 2370 sq. meters which is graveyard and has structures in rest of T.S.No.3/2. Since the vacant Government land is allotted to a Government School for playground and there is no interference with respect to graveyard, no further orders are called for.

The Writ Petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date:29.02.2016

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