

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.9102 of 2012

ORDER:

Heard Mr. Ramakanth Reddy, learned counsel for petitioner and learned Assistant Government Pleaders for Revenue and Irrigation.

2. Petitioner prays for Mandamus declaring the action of respondents 1 to 6 in interfering with the petitioner's peaceful possession and enjoyment of house/site admeasuring 400 sq. yards in Sy.No.638/1/A at Mahabubabad Village and Mandal, Warangal District in the name of fixing Full Tank Level (FTL) of Nizam Cheruvu Tank at the instance of the seventh respondent society as illegal, arbitrary and unconstitutional. The petitioner prays for a further direction to restrain the respondents from interfering with petitioner's possession and enjoyment of the same.

3. The averments in brief are that Sy.No.638/1/A of Mahabubabad village is a private patta property of one Mohammad Abdul Khadir. Petitioner relies upon revenue records (pahanies for a few years from 1980-81 till 2010-11) to show that the subject matter of the writ petitioner is patta land. On 17.03.2005, Mohammad Abdul Khadir sold an extent of Ac.0.30 guntas to one L.V. Gopal Reddy and in turn, on 09.09.2008, L.V. Gopal Reddy sold 400 sq. yards out of Ac.0.30 guntas in Sy.No.638/1/A in favour of one Tirukovalluru Venkateswarlu. On 02.09.2011, the petitioner claims to have purchased an extent of 400 sq. yards from Tirukovalluru Venkateswarlu. Hence, based on the alleged cause of action of fixing the boundaries at the instance of the seventh respondent and threatened action of dispossession, the present writ petition is filed.

4. The request of respondents to get instructions or file counter affidavit was accepted and sufficient time has been granted till date. Learned

Assistant Government Pleaders have made submissions basing upon the instructions sent by the respective departments.

5. The petitioner, in assertion of her title and possession, has placed reliance upon the revenue records and also registered sale deeds. According to the petitioner, the subject matter of the writ petition is not forming part of FTL of Nizam Cheruvu.

6. Learned Assistant Government Pleader (Irrigation) submits that Sy.No.638 in an extent of Ac.13.13 guntas, no doubt, is a patta land but forms part of FTL and is classified as Shikam land. Therefore, he submits that the rights of the petitioner are correlative to the nature of classification of the land and the petitioner cannot claim absolute right of enjoyment.

7. I have perused the material available on record and also the report placed on record by the learned Assistant Government Pleader (Irrigation). Having regard to the nature of dispute and also the enquiry required to be conducted for determining the rights of petitioner and assertions of the department, I am of the view that appropriate enquiry is required to be conducted by the fourth respondent. On 04.06.2012, the parties were directed to maintain status quo until further orders and the interim order is subsisting as on date. In view of the above circumstances, I am satisfied the writ petition can be disposed of by this order.

8. The petitioner is given liberty to make representation within four (4) weeks from the date of receipt of a copy of this order to respondents 3 and 4 for identifying the plot claimed by the petitioner and whether Sy.No.638 falls within the FTL or is a Shikam land. Respondents 3 and 4 are directed to conduct enquiry and survey the land and communicate the decision so taken on the representation of the petitioner. The petitioner is also given liberty to request for allotment of a house plot under the welfare

schemes implemented by the State Government in the event the subject matter is found as Shikam land and the petitioner is under obligation to reconcile her rights to the stipulations of law. On such request, the Joint Collector is directed to pass appropriate orders and thereafter, take steps for evicting the petitioner. The said exercise is directed to be completed within a period of two (2) months from the date of making representation by the petitioner. The status quo granted on 04.06.2012 is directed to be maintained till a decision is taken and communicated to the petitioner. The petitioner, if aggrieved by the final order of the respondents, is given liberty to pursue the legal remedies against such orders, if so advised.

The writ petition is disposed of. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

March 29, 2016
DSK