

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.19794 of 2011

ORDER:

Heard the learned counsel for the petitioner, learned Government Pleader for Revenue appearing for respondent Nos.1 to 4 and Sri P.Raghavendra Reddy, learned Standing Counsel for respondent No.5.

2. Petitioner is the owner of an extent of 487.15 sq. yds. situated at Nizampet village, Quthbullapur Mandal, Ranga Reddy District having purchased the same from Smt.Chakkilam Usha Rani under registered sale deed dt.09-05-2011. She then applied to 5th respondent for grant of permission to construct G+3 building. Permission was granted by the Executive Officer of Nizampet Gram Panchayat on 10-05-2007 and on 07-07-2011. When the petitioner commenced construction of the building, petitioner alleged that the respondent Nos.3 and 4 came to the construction area and orally directed the petitioner not to construct building without assigning any reason except stating that 2nd respondent has directed him not to make construction.

3. Counter affidavit is filed by 2nd respondent stating that the land of the petitioner is in Sy. No.229 but a complaint was received from M/s.Kakatiya Seva Samithi, Nizampet Road, Kukatpally stating that the petitioner was

carrying construction by encroaching into the neighbouring Government land in Sy. No.230 of Nizampet village. It is stated in the counter affidavit that on receipt of the complaint, Field Inspection was done by the Field Staff along with Mandal Surveyor and it revealed that the land bearing Sy. No.230 is Government land which is adjacent to land bearing Sy. No.229 and the petitioner is making construction by encroaching 15 feet in Sy. No.230. It is contended that the Field Staff have stopped the construction activity till fixation of boundaries in Sy. Nos.229 and 230. According to him, on 04-08-2015, there was an inspection of the land in Sy.Nos.229 and 230 and Mandal Surveyor has demarcated the said land and determined that an extent of 31 square yards of land in Sy. No.230 was encroached by the petitioner.

4. In the reply affidavit filed by the petitioner, the petitioner denied that any such survey was conducted by the Field Staff along with Mandal Surveyor and stated that it was incumbent on the Mandal Surveyor to follow Section 10 (2) of the AP Survey and Boundaries Act, 1923. It is also pointed out that in the counter affidavit, the respondents had alleged that there was only 15 feet encroachment is while in the map filed along with the counter, 31 feet encroachment shown and both are inconsistent with each other.

5. Learned counsel for the petitioner states that

the construction of the complex is now complete but boundary wall has not been erected. She contends that since the survey conducted by the respondents is done behind her client's back, the said survey does not bind the petitioner.

6. Since there is a dispute in this case as to whether there is encroachment by the petitioner (who holds the land in Sy. No.229) into the neighboring land in Sy. No.230 which is belonging to the Government, and since the survey allegedly conducted by respondents was behind the back of the petitioner, the respondent Nos.1 to 3 are directed to cause a fresh survey to be done demarcating the land in Sy.Nos.229 and 230 after issuing a notice to the petitioner, within three months from the date of receipt of a copy of this order. Till such survey is done by respondent Nos.1 to 3, the structures erected by the petitioner shall not be disturbed in any way by respondent Nos.1 to 3. The petitioner also shall not construct any compound wall till the said survey is conducted and if he can do so only if it comes to light in the said survey that there is no encroachment by the petitioner. Any determination in the survey is open to challenge by either party in an appropriate Civil Court.

7. Accordingly, the Writ Petition is disposed of. No costs.

8. As a sequel, the miscellaneous petitions, if

any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 29-06-2016

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