

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.15001 OF 2011

ORDER:

The petitioners pray for direction to respondents to act on the application dated 25.04.2011 submitted by petitioners for survey and fixing boundaries of an extent of 11148 square yards in Survey Nos.19/2A, 2/B and 2/C of Chinna Waltair Village, Greater Visakhapatnam Municipal Corporation.

On 09.08.2016, the conditional order granting time for filing counter affidavit was passed.

Respondent/Tahsildar filed counter affidavit. The primary objection for not acting on the representation of petitioners dated 25.04.2011 is stated thus:

"It is submitted that after survey and sub-division of the surplus in Sy.No.19/2 of Chinna Waltair village it was denoted as Sy.No.19/2A and 19/2B. The extent of Hec.0.3428 surplus in S.No.19/2A is covered with three thatched sheds and the rest of the land is vacant on ground and the extent of Hec.0.1380 Sq.mtrs in S.No.19/2B is covered by 80" Master Plan road. As seen from the records available it is stated that possession of the surplus extent of Hec.03428 Sq. Mtrs including the encroached extent of 1314.874 Sq.mtrs has been handed over to the District Manager, Housing Visakhapatnam on 20-12-2005 pending finalization of the District level and State level allotment Committees as per the instructions of the District Collector, Visakhapatnam for construction of houses to weaker sections. The Housing Corporation has not constructed houses in the allotted land due to the orders of the Hon'ble High Court, Andhra Pradesh, Hyderabad in W.P.No.3526/06. The land is still vacant on ground.

It is submitted that not having valid right over the land the writ petitioner submitted an application for conducting survey and fixing boundaries of S.No.19/2A, 2B, 2C as per the sub division FMB issued by the Special Officer, Urban Land Ceilings Visakhapatnam and as seen from the records available in this office the lands covered by Sy.No.19/2 of Chinna Waltair village was not subdivided any point of time and to that effect the Sub Division 19/2A, 2B and 2C made by the Special Officer, Urban Land Ceiling, Visakhapatnam were not incorporated in the Revenue FMB. It is further submitted that the petitioner has not submitted any valid document as required for survey and demarcation of the land. Therefore, it is to inform the petitioner that the request of the petitioner for demarcation of the said land cannot be considered in the absence of valid documents as required for survey and demarcation. It is submitted that, the writ petitioner filed this writ petition basing on the orders passed by the competent authority under Urban Land Ceiling Act on 09.06.2009, by suppressing the facts that civil disputes are pending adjudication on the file of this Hon'ble Court in between the petitioner and another with regard to same property. It is a fact that, when a request was made by the Govt. to the competent authority, ULC on 24-12-2008 to clarify the proceedings under ULC Act and thereafter a clarification was sent on 22-05-2009 to the Govt. and without there being any final orders from the Govt., the competent authority passed an order on 09.06.2009 declaring the writ petitioner as non surplus land holder. It is submitted that the revenue authorities an extending to brought to the notice of the Govt. with regard to the above proceedings with a request to take appropriate steps to protect the excess land which is around Rs.10 crores. It is submitted that basing on the order of the competent authority, the land cannot be demarcated since the order is not in accordance with law."

This Court is of the view that the reasons for not undertaking the survey are sufficiently explained and the petitioners have to work out the remedies available in law, have the right adjudicated and with reference to such adjudication, have to seek the remedy, if any for survey of subject land.

The writ petition is dismissed. No order as to costs.

Miscellaneous petitions pending if any shall stand closed.

S.V.BHATT, J

Date:26.08.2016

Stp