

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.24441 OF 2007

ORDER:

The case of the petitioner is that he is the absolute owner and possessor of agricultural lands in Survey No.143 to 149, admeasuring Ac.19.04 guntas, situated at Yamnampet Village, Ghatkesar Mandal, R.R.District having acquired the same from his ancestors. The father of the petitioner was the protected tenant and acquired total extent of land Ac.51.13 guntas as P.T.Holder and after his death petitioner and his two brothers became successors of the said land and they have entered into agreement of sale with the Pattedars by name Syed Yahiya Shurfuddin and Muzafer Sultana and they have executed the agreement of sale on 25.09.1974 obtaining earnest money from the petitioner and his brothers and thereafter the petitioner along with his brothers filed application before the Sub-Collector, Hyderabad East Division under Section 38 A of the Tenancy Act and the same was decreed in favour of petitioners. Petitioner's share is Ac.17.04 guntas and subsequently the petitioner purchased other Ac.2.00 guntas from his brother by paying land revenue. Thereafter the petitioner along with his brothers sold out Ac.16.13 guntas, of land to the third parties out of their total extent and that the above purchasers having rich and muscle power and with political influence are trying to interfere with the peaceful possession and enjoyment over the remaining extent of petitioner's property. As such, the petitioner made representation to the MRO to conduct survey in Survey No.147, vide letter dated

27.06.2003 and paid requisite fee, thereafter the MRO sent a letter dated 28.07.2003 to the Assistant Director, basing on the report given by the Mandal Surveyor dated 28.07.2003, since then the issue is pending. The petitioner approached many times in the year 2006 and requested to conduct survey in his lands by paying requisite fee. The petitioner also made a representation before the Mandal Revenue Officer, Ghatkesar to conduct survey and settle the boundaries of petitioner's land in Survey No.143 to 149. The petitioner also made a representation before the Collector, Ranga Reddy on 03.02.2007 to take necessary action. As no action is being taken, present writ petition is filed.

The 3rd respondent filed counter affidavit stating that the petitioner is recorded as Pattedar & Possessor only to an extent of Ac.2.09 cents in Survey No.147. It is also stated that the land bearing Survey Nos.143 to 149 are not Gut numbers and petitioner has not filed any documents to show that he is the owner and possessor of land in Survey nos.143 to 149. There is no record to show that 38-E patta was given to the petitioner.

It is also stated that the very tone and tenor of the pleadings would go to show that he wanted to gain some land in these survey numbers by falsely claiming that he is the owner of entire survey numbers and that admittedly he himself said to have sold Ac.16.00 from out of the land admeasuring Ac.17.04 guntas and Ac.2.00 of the land he purchased. It is also stated that to undertake the survey of the lands in the survey numbers the persons who are holding land have to be given notice and then

survey has to be conducted. In the instant case the petitioner is in possession of Ac.2.09 guntas and there is no necessity for conducting survey in view of the fact that he is in possession of the property over which he has a right. It is further submitted that conducting of survey over the lands over which the petitioner has no right and possession cannot be entertained and he cannot ask the lands of others to be surveyed without their consent and they are not parties to this writ petition.

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

It is to be seen that as per averments in the counter affidavit petitioner's name is recorded as pattedar and possessor to an extent of Ac.2.09 guntas in Survey No.147. Admittedly, petitioner sold other lands. Petitioner has not filed any reply to the counter affidavit. Basing on the counter affidavit learned Assistant Government Pleader for Revenue submitted that petitioner is recorded as owner to the land admeasuring Ac.2.09 guntas, he cannot seek survey of entire survey numbers. Petitioner has to make appropriate application showing the ownership through online.

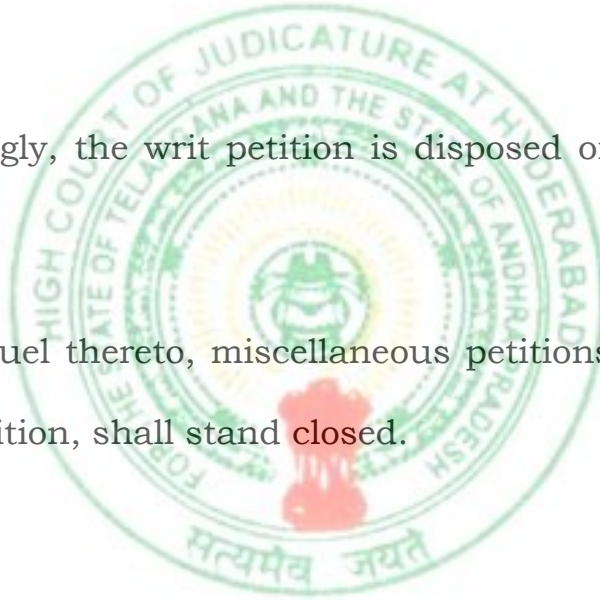
Even in the writ affidavit petitioner has stated that he is the owner of Ac.19.04 guntas in Survey Nos.143 to 149. Even as per affidavit it appears that there is a dispute between the petitioner and purchasers and that cannot be resolved in this writ petition. It is for the petitioner to approach appropriate Court for seeking

the said relief. In this writ petition, petitioner cannot ask this Court to settle the title dispute involving factual aspects.

Since it is stated by the learned counsel for the petitioner that the petitioner will make necessary application for survey of his land by paying necessary fee, it is open for the petitioner to make necessary application for survey of his land by paying necessary fee, within a period of eight weeks from today. On such application being made, the 3rd respondent shall consider the same and take action accordingly within a period of eight weeks there after.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending in the writ petition, shall stand closed.



A.RAJASHEKER REDDY, J

16.11.2016
t k