

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.27380 OF 2016

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ORDER:

The case of the petitioners is that they have purchased house property bearing No.13-1-1139/A/3, admeasuring 444.8 Sq.Ys., situated at Dilawar Gunj, Hyderabad from their father under registered sale deed dated 16.12.2015 vide Document No.3080 of 2015 by paying valid sale consideration. Originally, one Lakhan Singh Hazari was the owner of the said property and in turn he sold the same to one Raja Ram in the year 1974 through registered document vide Document No.2108 of 1974 and that in the year 1991 the said Raja Ram executed a registered GPA in favour of the petitioners' father vide document No.1192 of 1991 by which petitioners' father was granted all the powers including to execute any deed of transferring the property in full or in part. It is also stated that at the time of registration of property in favour of petitioners the said GPA executed in favour of petitioners' father was in existence. Petitioners are eking their livelihood by making Ganesh idols. While so, the respondents are trying to interfere with the possession of the petitioners and also threatening the petitioners that they would demolish the temporary sheds where the semi-finished idols are lying. Aggrieved by the same, present writ petition is filed.

Learned Government Pleader for Revenue produced written instructions stating that as per the TSLR the scheduled land falls in Survey No.50, correlated to TS.No.23, Block-B, Ward-29 of Kulsumpura Village; that as per TSLR, the names in Col.10 is recorded as 'Grave yard' and in Col.20 as 'G-Graveyard' to an extent of 52096 sq.mtrs; that as per Pahani Records, the land in Survey No.50 is classified as 'Mastan Ghat Sarkari'; and that on the ground

there are no houses existing and that the petitioners have raised tin sheds overnight and placed the Ganesh Idols in the scheduled property. It is also stated that this Court in WP.No.7540 of 1999 has ordered for protection of the said lands and that the Lokayuktha vide interim orders dated 02.03.2010 in complaint No.1050/2009/B1 directed the District Collector as well as the Tahasildar, Asifnagar Mandal to take necessary steps to implement the orders of the High Court by evicting the encroachers and that accordingly, action has been initiated under Section 7 of the Land Encroachment Act, 1905 by issuing notices dated 11.05.2010 on all the encroachers. Thereafter, final orders have been passed under Section 6 of the APLE Act vide proceedings dated 24.09.2010 for eviction of all the illegal encroachers from the grave yard land in TS.No. 23, Block-B, Ward-29 of Kulsumpura Village in conformity with the directions of this Court in WP.No.7540 of 1999. It is also stated that some of the encroachments in the form tin Sheds were removed and the land to an extent of 2500 square yards was proposed for construction of 33/11 KV and 132/33 KV GIS Sub-station to the APCPDCL. It is further stated that several suits in OS.Nos.2466, 2506, 2522 and 2743 of 2004 were pending and before this Court WP.No.14675 of 2015 was pending in respect of the subject land.

Heard both sides.

It is to be seen that though petitioners assert that they are the owners and possessors of the subject land the same is disputed by the respondents. Written Instructions produced by the learned Government Pleader also goes to show that suits are pending with regard to petitioners' title and one writ petition was also disposed off. The disputed questions of fact cannot be decided in the writ petition and the petitioners' title cannot be declared in the writ petition.

Having regard to the same, I am not inclined to entertain the writ petition.

Accordingly, the writ petition is dismissed. However, it is open for the petitioners to avail alternative remedy by approaching Civil Court. 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

22.08.2016

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