

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.6697 OF 2011

ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the respondents in depriving the petitioner from enjoying the land covered by Survey No.576 an extent of Ac.1.59 of Chemudugunta Village, Venkatachalam Mandal by constructing compound wall around the land of the petitioner as illegal and arbitrary and for a consequential direction to the respondents not to construct compound wall around the land of the petitioner in Survey No.576, Chemudugunta Village, Venkatachalam Mandal.

The case of the petitioner is that the land admeasuring an extent of Ac.1.59 cents in Survey no.576 of Chemudugunta Village, Venkatachalam Mandal, SPSR Nellore District was assigned to Sri Vengala Reddy Janakirami Reddy, under Ex-serviceman quota vide F.Dis.No.46/1990, dated 04.08.1990; and that the Revenue authorities issued pattadar pass book and title deed in favour of Janakirami Reddy. On 02.08.2004, the petitioner purchased the aforesaid extent of land from the original grantee under registered sale deed bearing document No.4501 and has been in possession and enjoyment of the said land. While so, the Revenue Authorities allotted the AWD land covered by different Survey numbers to the 4th respondent near Survey No.576 for the purpose of open jail and that the 4th respondent started construction of compound wall encroaching the patta land granted to the petitioner in Survey No.570. As such, the petitioner issued a legal notice dated 19.01.2011 to the respondents requesting not to construct compound wall encroaching the patta land granted to the

petitioner. Though the 4th respondent received the legal notice, he is proceeding with the construction of compound wall around the patta land of the petitioner. Hence the petitioner filed the present writ petition.

The 3rd respondent filed counter admitting that the subject land was granted assignment in favour of one Mr.Vengalreddy Janakirami reddy under Ex-serviceman quota vide proceedings dated 04.08.1990; and that the petitioner has purchased the said land from the original assignee through registered sale deed. It was also stated that some lands pertaining to Chemudugunta Village were allotted to the Jail Department and possession was also been handed over on 19.06.2000 and that the jail authorities have taken up construction of compound wall around the land allotted to them. It is further stated that the land allotted to the petitioner to an extent of Ac.1.59 cents in Survey No.576 is not allotted to the jail department.

The 4th respondent filed counter stating that an extent of Ac.75.34 cents situated at Chemudugunta Village, Venkatachalam Mandal, Nellore District was allotted to the Jail Department vide proceedings dated 22.03.2001 and that the jail department is constructing compound wall only in Survey Nos.561/part, 562/1 to 579-3, to an extent of 75.34 cents. It is also stated that the land in Survey No.576 was shown as Canal in the map given by the revenue department to the jail department. It is further stated that the jail department has not made any construction or encroached upon the petitioner's land in Survey No.576 to an extent of Ac.1.59 and sought for dismissal of the writ petition.

Heard learned counsel for the petitioner, learned Assistant

Government Pleader for Home and learned Assistant Government Pleader for Revenue.

The fact that the petitioner's vendor was assigned land to an extent of Ac.1.59 cents in Survey No.576, situated at Chemudugunta Village, Venkatachalam Mandal, Nellore District and that the same was purchased by the petitioner under registered sale deeds is not dispute. The 3rd respondent stated that the land in Survey No.576, claimed by the petitioner was not allotted to the Jail Department. The 4th respondent also states that construction of compound wall was made only in Survey Nos.561/part, 562/1 to 579-3 to an extent of Ac.75.34 cents which was allotted to them vide proceedings dated 22.03.2001 and that they have not encroached the petitioner's land in Survey No.576 to an extent of Ac.1.59 cents. But, the petitioner states that if the construction of compound wall is completed, petitioner's land falls in the jail premises. All these disputed questions of fact cannot be decided in the writ petitioner and in view of the same, the writ petition cannot be entertained.

Accordingly, the writ petition is dismissed. However, it is open for the petitioner to avail remedies available to him under law. 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

26.02.2016
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