

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.34623 of 2012

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue writ, order or directions more in the nature of Writ of Mandamus to declare the action of Respondent No.3 in trying to grab the land of the Petitioner as it is legal, arbitrary, ultravires, unjust and void against the Articles 14, 19 (1)(e)(f)(g) and 21 and 31 of the Constitution of India and against the Principle of Natural Justice. Hence unconstitutional and restrain the Respondents authority not to grab the land of the Petitioner of patta No.239 in Sy.No.94/2 of Brindavanam village of Pulipadu Gram Panchayath of Mundlamoor Mandal, Prakasham District. Further direct Respondent No.3 not to try to construct water tank in the petitioner's land to an extent of 10 cents in the above survey number and village forth with.”

Heard, Sri Jogram Tejavath, learned counsel for the petitioner and learned Government Pleaders for Revenue and Panchayat Raj for respondents, apart from perusing the material available before this Court.

According to the petitioner, he purchased the land in Sy.No.94/2 of Brindavanam village, Pulipadu Gram Panchayat, Mundlamuru Mandal, Prakasham District from one Gujarlapudi Hanmaiah, S/o.G. Subbaiah by way of

possessory agreement, dated 03-12-1982. It is further stated in the writ affidavit that the petitioner herein is a bonafide purchaser and has been in possession and enjoyment of the subject 10 cents of land. It is also averred in the affidavit filed in support of the writ petition that the petitioner herein filed O.S.No.3 of 2010 before the Court of Junior Civil Judge, Darshi for enforcement of contract of sale against his vendor. It is alleged in the writ affidavit that under the political pressure the 3rd respondent – Assistant Engineer is illegally trying to grab the petitioner's land.

During the course of hearing, it is submitted by learned counsel for the petitioner that the Court of Junior Civil Judge, Darshi, Prakasham District decreed O.S.No.3 of 2010 on 16-06-2014, directing the vendor of the petitioner herein to execute the sale deed.

Responding to the notices issued by this Court, a counter-affidavit deposed by the Assistant Executive Engineer is filed by the 3rd respondent herein stating, *inter alia*, that the subject property originally was owned by one Sri Bommu Seetharamaiah and his sons, who sold the said property to one Talari Sreenivasulu vide registered document, dated 22-05-1982 and the said Talari Sreenivasulu in turn sold the property to one Smt.Gunturi Parvathamma, W/o.Pedda

Ramaiah of Miryalguda village, Nalgonda District by way of registered document, dated 20-05-1983 for a valuable consideration of Rs.3,000/-. It is also stated in the counter-affidavit that Smt.Gunturi Parvathamma sold the property in favour of one Smt.Arigela Padma, W/o.Dasaradaramaiah vide registered document, dated 15-02-2007 and the said Smt.Arigela Padma voluntarily gifted the property of an extent of Ac.0.02 cents in favour of Village Water Supply and etc., Department for the use of public without any consideration. It is further stated that the vendor of the petitioner has nothing to do with the subject property.

The pleadings available on record manifestly disclose that there is a serious dispute as to the title and rights of the parties and in the considered opinion of this Court, the said factual controversy cannot be resolved by this Court under Article 226 of the Constitution of India. In view of the said reason, this Court is not inclined to entertain the present Writ Petition.

For the aforesaid reasons, the Writ Petition stands disposed of, and the petitioner herein is at liberty to approach the appropriate forum of law for establishing his rights over the property. *Status quo* as on today shall be maintained for a period of three (3) months from today.

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.V. SESA SAI, J

December 13, 2016

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