

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE Dr.JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.3609 of 2016

ORDER: *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

This writ petition is instituted calling in question the order and decree passed by the XIV Additional District and Sessions Judge's Court, Rangareddy District at L.B.Nagar in L.G.O.P. No.110 of 2002 on 30.11.2015.

2) Originally one K.Narasimha Rao instituted the proceedings under Section 7 of the Andhra Pradesh Land Grabbing (Prohibition) Act. During the pendency of the said proceedings, he died and his legal representatives 7 in number are added as petitioners to the L.G.O.P. No.110 of 2002. The present writ petitioner herein is impleaded as the 1st respondent to the said L.G.O.P while Smt.P.Santhoshamma, W/o.P.Narasimha Reddy has been impleaded as the 2nd respondent. The said Smt.P.Santhoshamma is impleaded herein as the 10th respondent.

3) On behalf of the petitioners, one K.Venkateswara Rao, the 6th petitioner in the L.G.O.P is examined as P.W-1 and Exs.A-1 to A-3 have been got marked. The writ petitioner herein has been examined as R.W-1, while one Sri A.Prathap Reddy was examined as R.W-2 and one P.Shanker Singh was examined as R.W-3 but no documentary evidence has been produced on behalf of the respondents. Significantly Smt.P.Santhoshamma has not chosen to examine herself as a witness.

Ex.A-1 is the original sale deed bearing document No.296/68 dated 20.02.1968, evidencing the purchase of land by the original petitioner (K.Narasimha Rao), Ex.A-2 is the encumbrance certificate

while Ex.A-3 is the certified copy of the link document establishing as to how the title to the land in question covered by Ex.A-1 has reached the hands of seller of Ex.A-1. Upon a proper appreciation, the Court has come to the conclusion that plot No.7, as is clearly made out from the schedule of Ex.A-1, consists of 693 Sq. yards situated at Gowtham Nagar, Upparpalli village and Municipality. Based upon Exs.A-1 and A-2, a finding is recorded by the trial Court that the petitioner has proved that he has purchased the petition schedule land. Further, the boundaries of the plot No.7 covered by Ex.A-1 have been clearly marked therein, that is on the northern boundary of plot No.7 lies plot No.8 while on the southern boundary lies plot No.6, on the eastern side the owner's land was shown while a 40 feet road abuts the land on the western side. In this view of the finding of the trial Court that it is the original petitioner who purchased plot No.7 comprising 693 Sq. yards, the Court held that the respondents have no right or title to the said land and that the said plot has suffered land grabbing and thereafter certain structures have been raised thereon. In view of the findings so recorded and in the absence of any credible material to vouch for the title to the plot No.7 with either of the respondents, the Court below has no hesitation to allow the petition holding that the 1st respondent therein is a land grabber in respect of the plaint schedule plot. Therefore the respondent Nos.1 and 2 shall re-deliver the possession of the plaint schedule plot to the petitioners by demolishing the structures illegally and unauthorisedly raised thereon within 30 days from the date of judgment.

4) Today learned counsel for the petitioner, Sri V.Surendra Reddy, would contend that the writ petitioner herein is not in possession of the suit plot No.7 and consequently he could not have been directed to demolish the structures that are existing thereon.

5) If the writ petitioner is not in possession of the L.G.O.P schedule Plot NO.7, the latter part of the directions issued by the Court

below need not cause any worry to him. Whoever is the person in possession of the said building is bound to demolish it and deliver vacant possession to the petitioners in the O.P or otherwise the petitioners in the O.P shall be delivered possession of such structures leaving it open to the petitioners in the O.P to demolish the same or deal with it otherwise. Therefore, the writ petitioner, who allegedly is not in possession of the said land, need not unduly worry that he could not undertake demolition of the structures standing on the O.P schedule land/Plot No.7. In such a case, he is no way obliged to comply with the said direction. But, however, the said direction implies that he shall not offer any resistance when the demolition of the structures standing on plot No.7 is undertaken either by the 2nd respondent in the O.P, who is impleaded as 10th respondent in this writ petition or by the petitioners in the O.P. on their own. No other contention is canvassed before us.

6) Accordingly, this writ petition is found to be meritless and hence dismissed. No costs.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

Dr. JUSTICE B.SIVA SANKARA RAO

18.02.2016
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