

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.36155 OF 2016

ORDER:

This Writ Petition under Article 226 of the Constitution of India is preferred by the petitioner seeking to declare the inaction of respondents 2 to 4 in demarcating the boundaries of the petitioner's land in survey No.107-6 admeasuring Acs.1-70 cents situated at Kapuluppada Village, Bheemunipatnam Mandal, Visakhapatnam District by conducting survey in pursuance to petitioner's representation dated 05.08.2016 as illegal and arbitrary.

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Revenue (AP). With their consent the Writ Petition is disposed of at the admission stage itself.

Learned counsel for the petitioner as well as the learned Government Pleader have placed before this Court the order dated 14.06.2013 passed in W.A.No.110 of 2013 wherein a Division Bench of this Court, after referring to Government Circular in Rc.No.N2/1741/2010 dated 18.05.2010 prescribing guidelines, based on Board Standing Order No.34-A paragraph 20 and proceeding in D.O.Rc.No.N1/4296/2012 dated 22.08.2012 of the Commissioner, Survey, Settlements & Land Records, Andhra Pradesh, Hyderabad, in regard to demarcation of survey numbers, opined that there is no bar for revenue officials to conduct survey of lands at the request of private parties subject to their furnishing relevant documents. It is specifically held that the Circular

referred to above issued by the Government permits the revenue officials to conduct survey on applications of the private parties.

The view expressed by the Division Bench in W.A.No.110 of 2013 has also been followed by another Division Bench in its order dated 16.07.2013 in W.A.No.1003 of 2013. Both these Division Benches have rejected the view that there cannot be survey of private lands by authorities of the Survey Department of the Government. The said ratio has been followed by a learned Single Judge of this Court in ***Golli Nagayamma and others v. State of Andhra Pradesh rep. by its District Collector, Visakhapatnam and others***¹.

Merely because there is no specific provision in AP Survey and Boundaries Act, 1923 (for short 'the Act') providing survey of private lands, it cannot be said that the authorities in the Survey Department of the State Government are prohibited from doing survey of private lands. Unless such a prohibition is provided in the Act, as public servants having expertise in doing survey (like other experts in fields of ballistics, handwriting, DNA etc.), it is incumbent on the officials of the Survey Department of the State Government to survey private lands if a request to that effect is made after collecting the necessary charges therefor. The circulars referred to above as well as other Government G.Os. issued by the Revenue Department in this regard would be binding and would govern the procedure to be followed in respect of survey to be conducted for private patta lands as well.

¹ 2015 (4) ALT 98

As held by this Court in **Hyderabad Potteries Pvt. Ltd. v. Collector, Hyderabad District and another**², the scheme of the AP Survey and Boundaries Act, 1923 would make it clear that the survey made under the said Act is mainly intended for the purposes of identification of the land and fixation of boundaries and there is no provision under the said Act for making any detailed enquiries with regard to right, title and interest of the persons in the land. Persons who are aggrieved by any decision referred to in the survey have liberty to approach the appropriate Civil Court for adjudication, if needed. There is also no remedy under Section 11 of the said Act to the appellate authority constituted under the Act instead of Commissioner of Survey, Settlement and Land Records. As held in **Khaja Naseeruddin and others v. Commissioner, Survey, Settlement and Land Records, Hyderabad and others**³, if survey is sought by a person, after issuing notice on parties interested and in particular the registered holders of land, the concerned official should conduct survey and demarcation in their presence.

The above principles are to be kept in mind and the above circulars are to be followed by the respondents while conducting survey of private lands under the Act.

In this view of the matter, the Writ Petition is allowed and 4th respondent is directed to cause a survey for demarcating the lands of the petitioner by considering the representation dated 05.08.2016 submitted by the petitioner after collecting necessary

² 2001 (3) ALT 200

³ 2007 (1) ALT 707

charges therefor within eight weeks from the date of receipt of a copy of this order after issuing notice to the petitioner and other affected parties and communicate his decision thereon to the petitioner. There shall be no order as to costs.

Miscellaneous petitions pending in this writ petition, if any, shall stand closed.

C. PRAVEEN KUMAR, J

Date: 26.10.2016

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