

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 28141 and 34078 of 2013

Date : 2.8.2017

WP 28141 of 2013

Between:

P Jayalakshamma W/o late P Chandra Bhanu Reddy
58 years R/o Rajasahebpeta village
Parumammilla mandal
YSR district and another

Petitioners

And

The Government of A P
Rep by its Principal Secretary,
Revenue Department,
Secretariat Buildings, Hyderabad and others

Respondents

The Court made the following:



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COMMON ORDER:

Since the issue raised in these two writ petitions is similar, with the consent of respective counsel, they are disposed of by this common order.

2. By impugned proceedings Ref No. B/120/2010 dated 12.4.2013 and Ref No. B/190/2010 dated 12.4.2013 respectively, subject lands were sub-divided. Petitioners in W P No. 28141 of 2013 claim to have purchased land to an extent of Ac.00.10 cents and Ac.00.6 ½ cents out of Ac.15.80 cents in Survey No. 1100/1, Rangasamudram village, Porumammilla mandal, YSR District under registered sale deeds dated 24.9.1984 and 20.10.1982 respectively. Petitioners in W P No. 34078 of 2013 claim to have purchased land to an extent of Ac.00.10 cents , Ac. 00.05 cents and Ac.00.04 cents respectively out of Ac.15.80 cents in Survey No. 1100/1, Rangasamudram village, Porumammilla mandal, YSR District under registered sale deeds dated 24.9.1984 and 20.10.1982 respectively.

3. While so, referring to some other litigation on the issue of proceedings issued under Section 145 of Cr.P.C., the Tahsildar/second respondent issued proceedings dated 12.4.2013 impugned in these writ petitions, as if there was a direction to him to demarcate the subject land as has been requested by respondents 3 to 5 without putting the other owners on notice.

4. Learned counsel for petitioners contend that in accordance with the provision contained in Section 10 of the A.P. Survey and Boundaries Act, 1927, (for short the Act, 1927) the persons who have interest in the subject property must be put on notice and must be given opportunity before undertaking sub-divisions of survey numbers. He submits that proceedings under challenge are liable to be set aside on the sole ground of not following the procedure contemplated by Section 10 of the Act, 1927.

5. Learned counsel appearing for respondents 3 to 5 do not dispute the fact that notice under Section 10 of the Act, 1927 was not issued before passing impugned orders. However, he submits that in view of the earlier litigation the orders are validly made and what is done is in accordance with entitlement of respondents 3 to 5.

6. At this stage, this Court is not inclined to go into the respective contentions on the ownership and extent of claims they are entitled to make on the subject property. Suffice to note, the proceedings under challenge were issued without observing the requirement of Section 10 of the Act, 1927 and the same are liable to be set aside on that ground alone. Accordingly the impugned proceedings in Ref No. B/120/2010 dated 12.4.2013 and Ref No. B/190/2010 dated 12.4.2013 respectively are set aside and the matter is remitted to second respondent to follow the due procedure as required by law before undertaking any exercise including sub-division of survey numbers.

7. Having regard to the fact that issue has been pending since long time, second respondent is directed to complete the entire exercise within two months from the date of receipt of copy of this order by duly putting on notice petitioners and respondents 3 to 5 and afford due opportunity to them to place their views and on due consideration of their respective submissions, take a decision by assigning due reasons in support of such decision and communicate the same to petitioners and respondents 3 to 5.

8. Until the exercise as directed above is completed, parties are directed to maintain status quo obtaining as on today.

9. Accordingly the writ petitions are allowed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:2.8.2017
TVK

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