

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

WP.No.26495 of 2011
WVMP.No.1059 of 2016 in WPMP.No.22640 of 2015 in WP.No.17502 of 2015
and
WP.No.17502 of 2015

COMMON ORDER :

WP.No.26495 of 2011 :

The subject matter of WP.No.26495 of 2011 is an extent of 6403 square meters in Survey No.144, corresponding to T.S.L.R.No.12/1 of Shaikpet Village, Golconda Mandal, Hyderabad District.

2. The petitioner had purchased an extent of Acs.6.37 gts in Survey No.129/71, which was subsequently re-numbered as Survey No.144 in Shaikpet Village, Banjara Hills, in an auction conducted by the Settlement Commissioner and Custodian of Executive Property, Bombay on 22.04.1961. A sale certificate issued in favour of petitioner in respect of the said property and boundaries of the said property were also mentioned therein.

O.S.No.118 of 1968

3. One Narain@ Narayan Bhavanani filed O.S.No.118 of 1968 before the III Addl. Judge, City Civil Court, Secunderabad for a perpetual injunction against the petitioner contending that he is in possession of land bearing No.7 measuring Ac.3.15 gts and numbered by the Municipal Corporation as premises no.8-2-120/102 at road

No.3, Jubilee Hills, Hyderabad specified in the sketch to the plaint., and that the petitioner was trying to interfere with his possession.

4. The said suit was decreed on 20.3.1971 and a perpetual injunction was granted restraining petitioner from interfering with possession of land bearing No.7 measuring Ac.3.15 gts and numbered by the Municipal Corporation as premises no.8-2-120/102 at Road No.3, Jubilee Hills, Hyderabad specified in the sketch to the plaint.

5. It is not in dispute that the land claimed by Narayan bhavanani is in S.No.151/4 of Shaikpet Village.

C.C.C.A.No.94 of 1972

6. Petitioner filed C.C.C.A.No.94 of 1972 in the High Court. This Court on 31.3.1975 modified the decree as under :

“ (i) The following words “excluding the triangular cone added in pencil admeasuring Ac.0.16 gts only and which is said to be overlapping in Sy.No.144 in Ex.B-19” be added at the end of clause No.1 of the decree of the Lower Court”

(ii) that save as aforesaid, the decree of the lower court is hereby affirmed.”

Thus this court excluded Ac.0.16 guntas of land from Survey No.151/4, claimed to be in the possession of the said Bhavanani holding that it is overlapping in the Revised Survey No.144 (Old Survey No.129/1).

7. Narayan Bhavanani then filed E.P.No.45 of 1975 for execution of the decree in O.S.No.118 of 1968 and for delivery of possession of plot no.7 bearing No.8-2-120/102.

8. During the pendency of the said E.P., he died and his legal representatives came on record.

9. The decree was executed and possession was delivered to the legal representatives of plaintiff including Mrs. Lakshmi Bhavanani, wife of the decree holder, i.e., Narayan Bhavanani.

10. The petitioner filed E.A.No.38 of 1976 in E.P.No.45 of 1975 for re-delivery of possession of property in Survey No.144 to him contending that the Civil Court only granted permanent injunction and so the question of delivering possession does not arise. He also contended that bailiff, in the course of delivery of possession, also delivered possession of a piece of land forming part of Sy.No.144 situated at Road No.2 of Banjara hills, Hyderabad to the decree holders, which it could not do so. The said E.A. was allowed and the Executing Court directed re-delivery of possession to the petitioner.

11. The petitioner filed E.P.No.33 of 1981 for execution of the order passed in E.A.No.38 of 1976 and the said E.P.No.33 of 1981 was also allowed.

12. Thereafter, Lakshmi Bhavanani filed C.R.P.No.1535 of 1982 before this Court. The said C.R.P. was dismissed and the said order

became final. Accordingly, a portion of land in Sy.No.144 was delivered to petitioner.

13. Subsequently, Smt. Lakshmi Bhavanani filed E.A.No.15 of 1984 in E.P.No.33 of 1981 to redeliver possession of the land described as Plot No.7 forming part of Survey No.151/4 of extent Acs.3.15 guntas bearing Municipal No.8-2-120/102 contending that the petitioner had taken possession of the entire suit land belonging to her husband, i.e., late Narayan Bhavanani.

14. The Executing Court found after enquiry that petitioner did indeed take possession of not only the Ac.0.16 gts of land, which he claimed was in S.NO.144, but also Ac.2.39 gts of land belonging to Narayan Bhavnani as per decree of the High Court. It allowed her E.A and directed the petitioner to re-deliver the possession of the property forming part of S.No.151/4 admeasuring Ac.3.15 gts except the triangular portion admeasuring Ac.0.16 gts which was said to be overlapping S.No.144.

15. Challenging the same, petitioner filed C.R.P.No.317 of 1990 in this Court. This Court did not interfere with the order of the Trial Court.

Civil Appeal No.5024 of 1991

16. The petitioner carried the matter to the Supreme Court in Civil Appeal No.5024 of 1991, and the Supreme Court on 18.12.1991 clarified that Smt. Lakshmi Bhavanani did not put forth any claim to

the Ac.0.16 guntas of land, and therefore, the said triangular portion should be treated as property of the petitioner and should be in his possession and dismissed the Civil Appeal with the said clarification. It held:

“It is, thus, clear that there is really no controversy about the said triangular portion. The said triangular portion shall be in possession of and shall be treated as the property of the defendant-appellant and the plaintiff shall have no claim thereto. Similarly, the defendant shall have no claim with respect to the rest of the plot No.7 of an extent of 2 acres 39 guntas said to be comprised in Survey No.151/4, and which has been decreed in plaintiff’s favour by the High Court.”

THE PROCEEDINGS UNDER THE URBAN LAND CEILING AND REGULATION ACT,1976

17. In the meantime, Narayan Bhavanani had filed a declaration before the Special Officer and Competent Authority, Urban Land Ceiling on 02.08.1976 declaring that he is having 1/3rd share in the land in Survey No.151/4 of Shaikpet village, Road No.2, Banjara Hills, Hyderabad bearing Municipal No.8-2-120/102.

18. The petitioner had already sold Acs.3.00 and odd in the Northern portion of his land in S. No.144 to one R.V.S. Chowdary and 2300 Sq.Yds. of land in the Southern portion of S. No.144 to one A.R. Paul and Squadron Leader Prasad on 05.09.1968.

19. The Special Officer and Competent Authority prepared draft final statement under the Urban Land (Ceiling and Regulation) Act ,1976 erroneously without following the view expressed by the

Supreme Court in C.A.No.5024 of 1991 and declared that the land belonging to petitioner in S.No.144 also should be computed towards excess land to be surrendered by Narayan Bhavanani.

20. G.O.Ms.No.461 revenue (UC.I) dept dt.4.10.1995 was issued by the State Government allotting 9039sq.m surplus land allegedly taken possession from the legal representatives of Narayan Bhavnani in JHM plot No.7 under the Act to the A.P. Film Development Corporation.

W.P.No.3766 of 1997

21. Assailing the same, W.P.No.3766 of 1997 was filed by the petitioner against the Special Officer and Competent Authority, Urban Land Ceiling, the Government of Andhra Pradesh, the District Collector, Hyderabad District and Mandal Revenue Officer, Golkonda Mandal, Hyderabad apart from the A.P. Film Development Corporation.

22. In the said Writ Petition, the petitioner also placed reliance on an order passed by the Metropolitan Sessions Judge, Hyderabad confirming his possession of land in Survey No.144 (Old Survey No.129/71) apart from the decision of the Supreme Court in C.A.No.5024 of 1991.

23. This Court, allowed the W.P.3766 of 1997 on 21.3.1997. It held that the triangular portion was declared by the Supreme Court in C.A.No.5024 of 1991 to be the land belonging to the petitioner in

which Narayan Bhavanani had no claim and that the petitioner had no claim in Plot No.7 of extent Acs.2.39 guntas in Survey No.151/4 which belonged to Narayan Bhavanani; that the Supreme Court made it clear that as per Village Plan, Ex.B.19, Survey No.151/4 and Survey No.144 were adjacent to each other; that a portion of Survey No.151/4 covered by plot No.7 juts into survey No.144 which is in the nature of a triangle and this triangular portion is the property of the petitioner; and the Special Officer, Urban Land Ceiling, or the Government of Andhra Pradesh or other respondents cannot have any claim in respect of the land in Survey No.144 which belongs to petitioner.

It also held that Smt.Lakshmi Bhavanani had no land in Survey No.144, that she and her husband had land only in Survey No.151/4, and therefore, the Special Officer cannot include land held by petitioner in Sy.No.144 in the land belonging to Smt. Lakshmi Bhavanani. It further held that the Special Officer cannot simply shift Survey No.151/4 to Survey No.144.

It also relied on the order placed by a Division Bench of this Court in L.P.A.No.200/91 and batch in support of the above findings.

It ultimately concluded in para no.33 and 34 as follows :

“In view of the findings of the Division Bench of this Court in L.P.A.Nos.200/91 and batch referred to above, wherein Lakshmi Bhavanani and other legal representatives of late Narayan Bhavanani are parties, and also by the Supreme Court in Civil Appeal No.5024 of 1991 of which they are again parties, and also in view of the judgment in C.R.P.No.1535 of 1982 dt.22.09.1983 to which again they are

parties, in all these proceedings it is clearly held that the petitioner has purchased the land in Survey No.129/71, corresponding to new Survey No.144 and that Narayan Bhavanani or his legal representatives have nothing to do with this survey number and that they are having land only in Survey No.151/4 (Plot No.7), the impugned G.O. seeking surrender of land in Survey No.144 is untenable and illegal. Accordingly, the impugned G.O. is set aside and consequently, the respondents are directed not to interfere with the possession and enjoyment of the said land in Survey No.144 as per Ex.B.19 plan. It is also made clear that all the proceedings, including the one under section 10(6) of the Urban Land (Ceiling and Regulation) Act which run counter to this judgment are null and void. Since the litigation is going on for more than 3 decades in order to give a quietus, there shall be a direction to the Revenue, Survey and Settlement Department to give effect to the judgments of the Division Bench and of the apex Court as clarified in this Judgment and amend entries in their records forth-with accordingly. The Writ Petition is accordingly allowed, but in the circumstances without costs.

However, this judgment does not in any way preclude the respondents from taking possession of the excess land if any, liable to be surrendered by Lakshmi Bhavanani from out of the land declared by her including the land in Survey No.151/4 (Plot No.7) after excluding the land in Survey No.144 as per Ex.B-19 and A.28 referred to above bounded by :

North : Survey No.129/61 and 129/60, Banjara Hills
South : Public road to Road No.3;
East : Survey NO.129/59 and Government open land;
West : Government open land.

That Rule Nisi has been made absolute as above.”

(emphasis supplied)

W.A.No.434 of 1997.

24. Assailing the above finding, the Special Officer, Urban land Ceiling and other respondents in the Writ Petition preferred

W.A.No.434 of 1997. The said Writ Appeal was also dismissed on 04.07.1997.

25. The Division Bench held that there is no factual basis for the contention of the learned Government Pleader for Revenue that the land in S.No.144 formed part of the land belonging to Bhavanani family which was to be declared to be in excess of the ceiling limit; that the said family had only land in S.No.151/4 of Shaikpet Village which they declared under the Act, but the Special Officer in the impugned order mentioned S.No.129 as if the land is covered by that S.No.; S.No.129 was no longer in existence having been sub-divided into Survey Nos.129/1 to 129/71 several decades back; Old Survey No.129/71 corresponds to new Survey No.144 in which the petitioner holds land and his ownership was also been accepted in L.P.A.No.143/91; that Plot No.7 had already been held by this Court as not belonging to Bhavanani family which was the declarant before the Special Officer; that the said finding in L.P.A.No.143 of 1991 was confirmed by the Supreme Court in its judgment dt.09.12.1996 in S.L.P.Nos.21695 to 21700 of 1996; and since Plot No.7 did not form part of the property owned by the Bhavanani family, there could not have been any declaration that any land forming part of Plot No.7 was found to be excess land.

26. The Special Officer, U.L.C.A., Hyderabad and other respondents in WP.No.3766 of 1997 sought a Review of the order in the W.A.No.435 of 1997 by filing Rev.W.A.M.P.No.1539 of 1997.

The Bench dismissed the Review petition stating that the judgment of the Single Judge was confirmed in entirety by it and that the Bench had not intended to modify any portion of the order of the Single Judge. It clarified that instead of the word “*Plot No.7*” in its order, it should have been mentioned as “*Survey No.129/71*”.

27. Thus the effect of the order in W.A.435 of 1997 is that Old Survey No.129/71 corresponds to new Survey No.144 in which the petitioner holds land and his ownership was also been accepted in L.P.A.No.143/91; that S.No.129/71 had already been held by this Court as not belonging to Bhavanani family which was the declarant before the Special Officer; and since Sy.No.129/71 does not form part of the property owned by the Bhavanani family, there could not have been any declaration that any land forming part of said Sy.No.129/71 was found to be excess land. Admittedly Sy.NO.129/71 corresponds to new Sy.No.144.

WP.No.26413 of 2001 AND COMPROMISE THEREIN

28. Subsequently, the petitioner herein filed WP.No.26413 of 2001 against the State of Andhra Pradesh as well as Smt. Lakshmi Bhavanani and her family members (who were impleaded as respondent nos.8 to 10 therein) challenging FIR No.504 of 2001 dt.25.09.2001 booked by the Station House Officer, Banjara Hills Police Station against him and for a direction to the respondents to refrain from interfering with his possession of the subject land in Survey No.129/71. He also sought a direction to the Revenue Officials

to make necessary entries in the Revenue, Survey and Settlement Records in respect of the land in Survey No.129/71 pursuant to the directions in WP.No.3766 of 1991; and a direction restraining the Bhavanani family members from interfering with his right, title and interest in the land in Survey No.129/71.

29. A memorandum of compromise was entered into in this W.P. between the petitioner and the General Power of Attorney holder of Smt. Lakshmi Bhavanani and her two sons by name Sri G. Madhusudhan Reddy. This compromise was filed in WPMP. No.24803 of 2002 in the said W.P.

30. In that compromise, after adverting to the litigation between them in Civil Appeal No.5024 of 1991 wherein it was recorded that jutting portion of land in triangular shape measured Ac.0.16 gunts, and that it falls in Survey No.144 (Survey No.129/71) and exclusively belongs to petitioner, it was agreed that the parties would abide by the Supreme Court in C.A.No.5024 of 1991.

31. Clauses 10 and 11 of the said compromise are very important and they state :

“10. The parties hereinabove further declare that to settle the pending disputes and to avoid arisal of any possible disputes in future with regard to the boundary of land existing between the respective properties belonging to the Writ Petitioner and the Respondents 8 to 10, the parties hereinabove unequivocally and irrevocably decided to have a survey conducted by the Officials of the Office of Commissioner, Survey, Settlement and Land Records, i.e., the 5th and 4th respondents for demarcating the Plot No.7 Sy.No.151/4 by fixing

the boundaries between Plot No.7, Sy.No.151/4, H.No.8-2-120/102 belonging to Respondent Nos.8 to 10 and the land in Sy.No.144 (129/71) also Plot No.7-A belonging to the Writ Petitioner herein and decided to bind themselves by such fixation of boundary and map to be prepared by 5th and 4th respondents. Hence decided to request this Hon'ble Court to pass the final orders on the lines of the terms of this compromise reached among the parties.

11. The parties hereinabove further declare and confirm that they will strictly abide by the fixation of boundary of Plot No.7, Sy.No.151/4, map/plan/report to be furnished by the 5th and 4th respondents pursuant to directions to be given by this Hon'ble Court and all the parties herein above will abide by such survey report and Map and will not re-agitate any disputes and further declare and confirm that such survey report and the Map shall be final and binding on the respective parties and their successors in interest forever.

(emphasis supplied)

32. In view of the said compromise, the said Writ Petition was disposed of on 11.10.2002, directing the District Collector, Hyderabad as well as the Commissioner, Survey, Settlement and Land Records, Hyderabad to conduct survey and demarcate Plot No.7 in Survey No.151/4, bearing H.No.8-2-120/102 belonging to the Bhavanani family and land in Survey No.144 (Old) (129/71 New), and also Plot No.7-A belonging to petitioner. The Court observed that once the matter is settled between the petitioner and Bhavanani family members they can move the District Collector and the Commissioner, Survey and Land Records for fixation of boundaries between the two plots. It also recorded the compromise filed by both parties in WPMP.No.24803 of 2002.

**THE REPORT DT.5.9.2009 OF THE DEPUTY DIRECTOR, SURVEY AND
LAND RECORDS DEMARCATING THE LANDS**

33. It is not in dispute that thereafter the Deputy Director, Survey and Land Records, Hyderabad submitted a report dt.05.09.2009 to the District collector, Hyderabad District demarcating the land in Survey No.144 and the land belonging to the Late Narayan Bhavanani in Survey No.151/4. He observed :

“.. ... After perusal of records it was noticed that the land in revision survey no.129/71 correlates to revision No.144 was a private patta land belonging to Khwaja Mohinudduin Ansari which was declared evacuee property vide Gazette Notification No.5 dt.20.10.1949. This land was transferred and vested with custodian of evacuee properties Mumbai under the provisions of Administration of Evacuee Property Act, 1950. The land was auctioned and purchased by Ayub Kamal. Since then the land was under various litigations before different courts.

However based upon the above directions of Hon'ble High Court and Apex Court the District Collector directed to demarcate Southern portion of land in Sy.No.129/71 correlates to revision Sy.NO.144 and Plot No.7 in Sy.No.151/4, Plot No.7 belonging to Late Narayan Bhavanani was allotted in exchange of Plot No.18 of J.H.M. Plan. Government of A.P. recognized 41 contenders who had paid the consideration were recognized to allot plots out of the land which was Government land. The extent of land of Plot No.7 was confirmed as Ac.2-39 Guntas (Originally Ac.3.15 Guntas and 16 Guntas was deleted by orders of court as overlapping portion over Sy.No.144.

Accordingly demarcating land in Sy.No.144 to the east of road to Sagar Society as per the guidance taken from revision survey map both the land in revision No.144 southern part and land in Sy.No.151/4 can be fixed between road to Sagar Society and Mayfare apartment. The sketch prepared by the then deputy director localizing R.S.No.144 in WP.NO.26413 of 2001 was also referred for

demarcating R.S.No.144. A small strip of land in T.S.12/3 is forming part of R.S.144. Thus, no piece of government land was found between Plot No.7 and R.S.No.144.

The extent of both lands are as under.

Plot No.7 is demarcated to an extent of 12053 sq.mts. (Ac.2-39 Guntas). The southern part of R.S.No.144 after excluding road and buildings demarcated to 6403 Sq.Mts. And area of government land is 760 Sq.Mts. A map is enclosed accordingly.”

34. After this demarcation, the land belonging to petitioner was thus found to be thus 6403 Sq.m in the Southern portion of S.No.144 after excluding the roads and buildings; and the land belonging to the Bhavanani family is found to be Acs.2.39 guntas of extent equivalent to 12,053 Sq.m., and the said area was demarcated as Plot No.7.

W.P.26495 of 2011

35. The petitioner in WP.No.26495 of 2011 seeks implementation in the Revenue Records of the said proceeding in Lr.No.A4/392/2002 dt.05.09.2009 of the Deputy Director, Survey and Land Records, Hyderabad and to put pegmarks to his land as per the said report.

WP.No.17502 of 2015 :

36. The son of Narayan Bhavanani by name Bimal Narain Bhavanani and another company by name M/s.G.M.R. Construction Private Limited filed W.P.No.17502 of 2015 against the petitioner (who is arrayed as 5th respondent therein) and the State of Telangana and seek a direction that they not take any action on the basis of the report of the Deputy Director, Survey and Land Records in

Lr.No.A4/392/2002 dt.05.09.2009 for correcting the T.S.L.R. alleging that they made a representation on 26.10.2009 objecting to the same and the same ought to be considered.

THE CONSIDERATION BY THE COURT

37. Heard Sri V.Srinivas, Counsel for petitioners in W.P.26495 of 2011, Government Pleader for Revenue (Assignment), State of Telangana for respondents 2-4 therein, Sri Y.Ashok Raj and Sri Mahmood Ali, counsel for private respondents in said W.P as well as Sri E.Madan Mohan Rao, counsel for petitioners in W.P.17502 of 2015.

38. The Bhavnani family including Sri Bimal Narayan Bhavnani had categorically admitted in Clause 11 of the compromise that they would strictly abide by the fixation of boundary of Plot No.7 in Survey No.151/4, map/plan/report to be furnished by the District Collector, and Commissioner, Survey, Settlement and Land Records pursuant to directions given by the Court and that all parties would abide by such survey report and map *and will not re-agitate any disputes*. Nobody compelled them to agree to the said clause in the compromise. Having accepted the said terms, they are thus barred from challenging the said survey in any manner in any forum on any ground.

39. Basing on this compromise which was filed in WPMP.No.24803 of 2002, WP.No.26413 of 2001 was disposed of on

11.10.2002, and a direction was given to the above officials to conduct survey and demarcate Plot No.7 in Survey No.151/4 as well as Plot No.7-A in Sy.No.144 (Old) – (129/71 New) belonging to petitioner.

40. In my considered opinion, having regard to the contents of para nos.10 and 11 of the compromise between Bhavanani family members including Sri Bimal Narayan Bhavanani (petitioner no.1 in W.P.No.17502 of 2015) and the petitioner and others in WP.No.26413 of 2001 referred to above in para 31 above, it is not open to petitioners in WP.No.17502 of 2015 to question the survey report of the Deputy Director, Survey and Land Records or file objections thereto.

41. I also hold that petitioners in WP.No.17502 of 2015 are estopped from filing the said Writ Petition in view of Clause 10 and 11 of the compromise recorded by this Court in its order dt.11.10.2002 in WP.No.26413 of 2001. Filing of the said W.P. by them is a sheer abuse of process of Court on their part.

42. No doubt petitioners in W.P.No.17502 of 2015 filed WPMP.No. 22640 of 2015 for a direction to the respondents to consider their objections to the Survey report dt.5.9.2009 of the deputy Director, Survey and land records , Hyderabad demarcating the lands of the parties. On 17.06.2015 in WPMP.No.22640 of 2015 in WP.No.17502 of 2015, an interim order was granted to consider their objections.

43. WVMP.NO. 1059 of 2016 was filed to vacate the said order by petitioner in W.P.No.24695/2011 /5th respondent in W.P.17502 of 2015.

44. In view of my finding in para 41 above that petitioners in WP.No.17502 of 2015 are estopped from to filing the said Writ Petition in view of Clause 10 and 11 of the compromise recorded by this Court in its order dt.11.10.2002 in WP.No.26413 of 2001, WVMP NO. 1059 of 2016 is allowed and the interim order dt. 17.06.2015 in WPMP.No.22640 of 2015 in WP.No.17502 of 2015 is vacated.

45. I will now deal with the several private respondents who got themselves impleaded in WP.No.26495 of 2011 by filing WPMP.Nos.6553, 16417 and 22795 of 2012 in W.P.26495 of 2011.

46. As regards petitioners in WPMP.No.6553 of 2012 (who were impleaded as respondent No.s 4-16 in W.P.26495 of 2011), they are claiming through the Bhavanani family. So they are also bound by the terms of the compromise entered into by members of the said family with the petitioner in WP.No.26495 of 2011 which was recorded by this Court in WP.No.26413 of 2001 on 11.10.2002.

47. The petitioners in WPMP.Nos.22795 and 16417 of 2012 (who were impleaded as respondent Nos. 17-19 in W.P.26495 of 2011), have purchased land through the petitioner in WP.No.26495 of 2011, and so they support the claim of the petitioner in WP.No.26495 of 2011.

48. Though it is contended by Sri E. Madan Mohan Rao and Sri Y. Ashok Rao, counsel for respondent nos.4 to 16 in WP.No.26495 of 2011 that there was no survey at all conducted by the Deputy Director of Survey and Land Records, the said contention is not correct in view of the report of the Deputy Director referred to above dt.05.09.2009 in Lr.No.A4/392/2002. Survey was undoubtedly done, but it is not yet implemented in the Survey and revenue records by respondents 1-3 in W.P.24695 of 2011.

49. Though they also relied on report in Proceedings No.F4/7152/91 dt.21.01.1999 of the then District Collector, Hyderabad District in support of their above contention and alleged that no further action was taken subsequently, this contention is equally untenable since the said order only recited the various events in the litigation between the State, the Writ Petitioner and the Bhavanani family members on the other hand. Even in the said order in the last para, the District Collector requested the Deputy Director, Survey and Land Records to demarcate the lands claimed by the petitioner as well as the Bhavanani family. Obviously, in view of the said request, the survey in 2009 was done by the Deputy Director, Survey and Land Records culminating in his report dt.5.9.2009.

50. Coming to the stand of the State of Telangana, an elaborate counter-affidavit is filed by the District Collector, Hyderabad, raising several contentions therein questioning the findings in W.A.No.435 of 1997 to which the State was a party and which the State lost. It is not

open to the State of Telangana to re-open the findings therein which have attained finality in the present Writ Petition and it is precluded by the principle of *res judicata* from re-agitating the said issues.

51. Though the District Collector also took a plea that the survey conducted by the Deputy Director was erroneous and confusing, when both the petitioner as well as Bhavanani family members have accepted the said survey in view of the compromise in WP.No.26413 of 2002 and since the State has no claim to any land belonging to petitioner in view of the judgment in WA.No.435 of 1997, the survey conducted by the Deputy Director, Survey and Land Records has to be accepted by the respondent nos.1 to 3 in WP.No.26495 of 2011 as well.

52. Therefore, WP.No.26495 of 2011 is allowed and a *Writ of Mandamus* is issued declaring the action of respondents in not amending the concerned revenue and survey record by recording the petitioner's name in compliance of the directions of this Honourable Court as made in WP.No.3766 of 1997 as affirmed by the Honourable Division Bench in WA.No.435 of 1997 and not putting the peg marking to the petitioner's land to an extent of 6403 Sq.Mts. in Survey No.144 corresponding to T.S.L.R.No.12/1 of Shaikpet village, Golconda Mandal, Hyderabad District even after identifying the same as illegal, arbitrary and violative Of Art.14 and Art.300-A of the Constitution of India, and consequently the State of Telangana as well as other respondents therein are directed to amend the concerned

revenue and survey records by recording the name of the petitioner and also to put the peg marks to his land as per the survey report of the Deputy Director, Survey and Land Records, Hyderabad (2nd respondent) dt.05.09.2009 forthwith. No costs.

53. Also, WVMP.No.1059 of 2016 in WPMP.No.22640 of 2015 in W.P.No.WP.No.26495 of 2011 is allowed.

54. WP.No.17502 of 2015 is dismissed. The petitioners in W.P.17502 of 2015 shall pay costs of Rs.10,000/- to 5th respondent therein.

55. As a sequel, miscellaneous petitions, pending if any in these Writ Petitions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 02.06.2017

Ndr/*

Note : Issue C.C. tomorrow.

B/o.

Ndr/*