

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 24263 of 2010

ORDER:

1) Questioning the action of the respondents in not considering the application for survey and demarcation of land admeasuring Ac.7.00 in Sy.No.30 of Allapur Village, Balanagar Mandal, Ranga Reddy District in spite of decree and judgment of the civil Court is subject matter of challenge in this writ petition.

2) The petitioner claims to be the owner of land referred to above, having purchased the same under registered sale deed bearing document No.1327/1967 dated 08.07.1967, followed by a rectification deed dated 29.06.1970. It is said that the ownership and possession of the vendors of the petitioner over the land was confirmed by the civil Court in O.S.No.90 of 1970 dated 15.11.1973. The petitioner and his vendors also filed a suit for rectification of record of rights and also sought for a declaration, which was decreed on 19.11.1974 with a direction to the Collector, Hyderabad, to remove the wrong entries and mutate the name of the plaintiffs in the revenue records. Though the decree was passed in the year 1974, till date the same was not implemented by the authorities. Aggrieved by the same, the

present writ petition came to be filed enclosing the copies of the decrees and review orders.

3) As seen from the affidavit, the request of the petitioner is for survey and demarcation of the land of the petitioner, thereafter to mutate the name of the petitioner in pursuance of his application dated 23.02.2010.

4) Pending the writ petition, one S.Nooruddin Qadri filed W.P.M.P.No.10745 of 2012 to implead himself as respondent No.7, the contents of which are as under:

“The father of the implead party by name Syed Shah Yahha Alam Quadri is Khatadar/pattadar and also possessor and enjoyment of lands covered in Sy.Nos.1 to 55 of Allapur Village. Sy.Nos.1 to 55 are Inam Lands and the name of his father was recorded as pattadar in Khasra pahani of the year 1954-55 except in Sy.No.30. The Sethwar of Allapur Village also show that Sy.Nos.1 to 55 of Allapur village are inam lands covered under a muntakab and the same was confirmed by the Board of Revenue on 30th Teer 1332 Fasli. After his death, the entire property devolved on his legal heirs. They applied for grant of Occupancy Rights Certificate in respect of other survey numbers except Sy.No.30. From 20.07.1955 onwards the right, title and interest in respect of land in Sy.No.30, admeasuring ac.24.12 gts. is with the State

Government and it is mentioned as water tank in the pahanies. The legal heirs of inamdar are also not entitled to sell the land, wherein the tank was situated. It is further stated that the petitioner obtained judgment and decree by suppressing the nature and classification of the land.

5) As seen from the averments filed in support of the writ petition, the request of the petitioner is that his application for conducting survey and demarcation is pending consideration since very long time. According to him, though it was made on 23.02.2010, till date no orders are passed. It is to be noted that the writ petitioner filed O.S.No.48 of 2004 against the Government, claiming to be the owner and possessor of the suit schedule property and to declare him as the owner of the suit schedule property apart from seeking perpetual injunction and correction of entries in the revenue records. The suit was dismissed on 26.06.2009. Without challenging the judgment and decree passed in the said suit, the petitioner filed Review Petition No.2 of 2009, by raising number of grounds, stating that he was in possession of the property prior to 1954-55. He also pleads that in view of the orders passed in O.S.No.90 of 1970, the order needs to be reviewed. Considering the material placed, the Court reviewed the said order and allowing the Review Petition holding the petitioner as an absolute owner

and possessor of land admeasuring Ac.7.00 gts., in Sy.No.30/ AA situated at Allapur Village, Balanagar Mandal, Ranga Reddy District and directed the defendants therein to remove the wrong entries and mutate the name of the petitioner in the revenue records in respect of the said land. No appeal has been preferred challenging the said review order.

6) In view of the above, learned counsel for the petitioner pleads that the action of the authorities in not implementing the orders of the civil Court, which has become final is illegal, improper and incorrect. He also placed on record the legal opinion given by the Government Pleader for Revenue, the letter written by the Deputy Collector and Tahsildar, dated 30.12.2011 addressed to the District Collector, Ranga Reddy and letter dated 20.11.2014 wherein a direction was given to implement the order of the civil Court.

7) Apart from these things he also placed on record the pahanies to show that the petitioner is the owner and possessor of the said land. The same is strenuously disputed by the Government Pleader for Revenue. He submits that the pahanies which are placed on record are fake and bogus. Placing reliance on the pahanies of the year 1973-74, he submits that the said land is a tank land and as such the

question of surveying and mutating the name of the petitioner would not arise.

8) It is also to be noted here that in the letter dated 20.11.2014 it was stated that as per the Sethwar, the land in Sy.No.30 admeasuring Ac.24.12 gts., was classified as "Sarkari" and in Khatedar column it is recorded as "cheruvu". The Deputy Collector and Tahsildar, Balanagar Mandal, was directed to examine the opinion given by the Government Pleader for Renue and take appropriate action on implementation of court orders.

9) The note File No.B1/ 27142/ 2009 which has been placed before this Court show that the request of the petitioner for demarcation of land in Sy.No.30 of Allapur Village cannot be considered for the reason that, as per record, the said land is classified as Government Skham and mutation cannot be done. The same was directed to be informed, but the learned counsel for the petitioner submits that no information has been furnished to him till date and there is any amount of doubt that as to whether the said note file was really made in the year 2009. It is urged that if the same was made in the year 2009, nothing prevented the authorities to communicate the same till date.

10) Therefore, from the record it appears that there are two sets of documents which described the land in different forms. As per the revenue records, relied upon by the Government Pleader, the said land is described as government sikham (cheruvu), where as the pahanies produced by the petitioner show that he is pattadar of the said land. Basing on the documents produced, the civil Court reviewed the earlier order holding that the petitioner is the absolute owner and possessor of land admeasuring Ac.7.00 gts., in Sy.No.30/ AA situated at Allapur Village, Balanagar Mandal, Ranga Reddy District and directed the defendants therein to remove the wrong entries and mutate the name of the petitioner in the revenue records in respect of the said land.

11) The Government Pleader for Revenue strenuously opposed the writ petition saying that no relief can be granted to the petitioner since it is a sikham land and a cheruvu tank bed. He submits that in view of the judgments of the Apex Court, cheruvu tank land cannot be mutated.

12) It is to be noted here that the request of the petitioner is to deal with the application made by him for survey, demarcation and mutation. In view of the fact that the application was made by the petitioner in the year 2010 and

it is still pending, the respondents can as well pass appropriate orders on the application made by the petitioner in accordance with law by giving reasons. It is not the case of the respondents that the respondents have already passed an order on the application made in the year 2010. What has been placed on record, is only an endorsement made on the note file, which was never communicated to the petitioner.

13) For the aforesaid reasons, the writ petition is disposed of directing the respondents either to pass an order on the application made by the petitioner in the year 2010 as early as possible, preferably, within a period of four to eight weeks from the date of receipt of order and if an order is already passed, communicate copy of the same to the petitioner. Thereafter, the petitioner is at liberty to avail the remedy, if any, available under law.

14) As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

24.08.2017
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