THE HON'BLE THE ACTING CHIEF JUSTICE
RAMESH RANGANATHAN
&
THE HON'BLE SMT JUSTICE T. RAJANI

WRIT APPEAL No.976 of 2017

JUDGMENT: (Per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Pursuant to our order dated 18.07.2017, the Principal Secretary, Revenue Department, Government of Telangana, is present in Court today. The learned Government Pleader for Revenue has tendered his unconditional apology for his absence on the previous date of hearing. Heard Sri J. Kanakaiah, learned counsel for the appellant and the learned Government Pleader for Revenue (Telangana) and, with their consent, this appeal is being disposed of. This appeal, under Clause 15 of the Letters Patent, is preferred against the order of the learned Single Judge in WP.No.11054 of 2011 dated 12.06.2017.

The appellant herein is the petitioner in the writ petition wherein he sought a Mandamus to declare the order passed by the Assistant Director, Survey and Land Records dated 11.03.2011 as arbitrary and illegal. By the said order, the Assistant Director had directed a survey to be caused and had thereafter classified the petitioner's lands as Government lands in the survey and settlement record pertaining to year 2003. When the petitioner sought to have the same corrected, the Assistant Director, by endorsement dated 11.03.2011, informed that it was not possible to conduct demarcation in the old survey numbers again. In the counter affidavit, filed by the second respondent (Assistant Director, Survey and Land Records), it is stated that, in the pahani of the year 1975-76, the said lands were shown as "Dasthagardavi" in place of mali Maqtha showing the name of the Maqthadari as owners, and Ram Reddy and others as cultivators; in the year 1990-91 an extent of Ac.15.20 guntas in Sy.No.23, and Ac.29.10 guntas in Sy.No.24, were treated as patta in favour of Sri Ramaram Raj Reddy S/o.Bal Reddy under Inam Abolition Act by issuing Occupancy Right Certificate (ORC); subsequently, the land was mutated in favour of the petitioner from his father; the Survey and Settlement Records were implemented in the Revenue Records in the year 2003; as such the old survey numbers were superseded, and the new survey numbers are in force; and since there was no survey prior to the survey done in 1356 F, there was no village map for the old survey number maintained till the implementation of Survey Settlement in the year 2003.

In the order under appeal, the learned single Judge has relegated the appellant-writ petitioner to the remedy of invoking the jurisdiction of the authority under Section 87 of the Hyderabad Land Revenue Act, 1317 Fasli (for short 'the Act').

Sri J. Kanakaiah, learned counsel for the appellant, would contend, not without justification, that Section 87 of the Act only enables correction of a clerical error; and as the second respondent is required to demarcate the land, in the subject survey numbers, no useful purpose would be served in the petitioner availing the remedy under Section 87 of the Act. While fairly stating that the scope of Section 87 of the Act is extremely limited, learned Government Pleader for Revenue would contend that, on payment of the prescribed fee, the Assistant Director, Survey and Land Records is empowered to conduct a survey; and to thereafter issue a supplement Sethwar.

We consider it appropriate, therefore, to modify the order of the learned Single Judge, and permit the petitioner to submit an application to the Assistant Director, Survey and Land Records, along with prescribed fee (which is stated to be Rs.1,372/-) for demarcation of his land in the subject survey numbers, and for a supplementary sethwar to be issued pursuant thereto.

The appellant-writ petitioner shall file such an application, along with prescribed fee, at the earliest. The second respondent shall consider the said application, cause a survey of the subject land, and thereafter take necessary action in accordance with law. The entire exercise, culminating in an order being passed and communicated to the petitioner, shall be completed with utmost expedition, in any event, not later than two months from the date of receipt of the appellant's application.

The writ appeal is disposed of accordingly. Consequently, pending miscellaneous applications shall stand closed. There shall be no order as to costs.

RAMESH RANGANATHAN, HACJ

T. RAJANI, J

June 24, 2017
DSK