

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.13803 OF 2013

ORDER:

Heard Mr.T.Janardhan Rao for petitioners and the Assistant Government Pleader (Revenue) for respondents.

The petitioners complain against fixing survey stones along the canal in Sy.Nso.105 and 107 of Vendlurupadu Village of Tada Mandal, Gudur Revenue Division, Nellore District and closing the canal etc., in the instant writ petition.

The petitioners claim to be owners and possessors of an extent of Ac.5-74 cents in Sy.Nos.105 and 107 of Vendlurupadu Village. The grievance, as already noticed, is that the respondents, without recourse to law, cannot affect the proprietary right of petitioners of subject matter of the writ petition. Hence, the writ petition.

On 30.04.2013, this Court directed the respondents to ensure that the canal is not closed. Respondents 1 to 3 filed petition to vacate the interim order dated 30.04.2013. In the counter affidavit filed, the following details are given:

“Out of the extents mentioned above a canal is passing behind the side of the patta lands of the writ petitioner in the Survey Nos.105-6 Ac.0.08, 107-4 Ac.0-11. Tank water is being fed through this canal to the patta lands of the writ petitioner and the other patta lands of the village. The Harijans of Vendlurupadu village have put in a petition requesting for the formation of an approach road to their burial ground existing in Survey No.105-5 Ac.0-56 of Vendlurupadu village. The writ petitioner has encroached the canal poramboke to an extent of Ac.0-13 cents in the

total extent of Ac.0-19 cents and he has also encroached an extent of Ac.0-05 cents in the total extent of burial ground Ac.0-56 cents. The S.Cs of the village used to take the death bodies to their burial ground through the canal poramboke which is under the encroachment of the petitioner. The writ petitioner used to object the S.Cs to pass through the canal poramboke under his encroachment. As much the S.Cs have approached the Tahsildar during Revenue Sadassulu at Vendlurupadu village and filed a petition requesting to form a road to burial ground and also requested to show the boundaries for the existing burial ground. Accordingly the Mandal Surveyor, Tada was deputed and the boundaries for both the burial ground and the canal poramboke were shown to the S.Cs of the village.....”.

On the stand taken in the counter affidavit, the counsel for petitioners submits that the identification and demarcation of petitioners' property and Government land are possible only if survey is conducted in the presence of petitioners and in the survey if it is found that the petitioners, as a matter of fact, are encroaching the land belonging to Government, the petitioners certainly are not interested in continuing with such encroachment. He requests the Court to direct the respondents to survey and demarcate respective areas i.e., Government land and petitioners land in Sy.Nos.105 and 107. The petitioners are prepared to vacate the encroached portion, if any, on their own.

The statement of counsel for petitioners is placed on record.

In view of the statement made on behalf of petitioners, the writ petition is disposed of by this order:

- i) The interim order dated 30.04.2013 is directed to be continued for a period of three months from today.
- ii) Respondent No.3 orders for survey and demarcation of patta land of petitioners and the Government land, canal or rasta, demarcate the respective areas as per the survey in the presence of petitioners.
- iii) The 3<sup>rd</sup> respondent is given liberty to send notice by RPAD of proposed survey to petitioners to the address shown in the writ petition; and
- iv) The above exercise shall be completed within a period three months from today.

There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, stand closed.

22<sup>nd</sup> June, 2017

*Lrkm*

S.V.BHATT,J

