

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.19519 OF 2006

ORDER:

Heard learned counsel for the petitioners and learned Government Pleader for respondents 1 to 3.

This writ petition relates to the land of an extent of Ac.28.32 guntas situated in Survey Nos.138, 139 and 153 (old) at Meerpet Village, Saroornagar Mandal, Ranga Reddy District. The lands are inam lands. The inamdar was Mir Abbas Ali and he died in 1939. After the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 came into force, the lands vested with the Government.

After abolition of inams, the father of the third petitioner, Gowra Reddy, Babaiah and Mallesh applied for grant of Occupancy Rights Certificate (ORC) and the certificate was granted to the father of the third petitioner by the Revenue Divisional Officer, Hyderabad East, on 22.12.1980 for an extent of Ac.17.02 guntas in Survey Nos.141, 143, 144 and 145. The other two applicants Babaiah and Mallesh were granted ORC for an extent of Ac.5.17 guntas comprising parts of Survey Nos.127, 128 and 141.

While so, the Managing Committee of Majid Abbas Ali Khan represented by its Secretary preferred an Appeal before the Joint Collector-II, Ranga Reddy District, on the ground that the property was endowed to A.P.Wakf Board and a Notification was published in respect of land admeasuring Ac.28.32 guntas forming part of Survey Nos.138, 139 and 153 (old) corresponding to new Survey Nos.127, 128, 141, 142, 143, 144 and 145. The Notification was challenged in W.P.Nos.12275 of 1993, 25392 of 1996 and 681 of 1997 before this Court and this Court by a common order, dated 04.01.2002 set aside the Notification. The Writ Appeals preferred in W.A.Nos.878 of 2002, 745 of 2002 and 729 of 2002 were also dismissed in the year 2006, but based on the Notification and in view of pendency of Writ Appeals, the Joint Collector allowed the appeals by holding as follows.

On perusal of the Wasool Baqui of 1357F of Meerpet village read as follows:

Bapath Makthedaran Mafi Mahrul Inam Dharam

Khata No.	Name of the Khatedar	Old Sy No.	Old extra ct	New Sy. No.	New Extent
1	Meer Abbas Ali Khan	138	9-01	143 145	2-21 2-12
		153	17-31	128 144	0-15 0-30
		139	2-00	141 142 127	14-05 1-35 2-03

The Supplementary to Part-II of the A.P.Gazette No.6-A, dated 09-02-1989, contains the list of Wakf properties (Registered & unregistered) in Hyderabad East, Hyderabad West and other areas of Telangana Region surveyed under Section 4(3) of the Wakf Act, 1954 and published under Section 5(2) IBID. In the above Gazette at Sl.No.2900 the land bearing Sy.Nos.138, 139, 153 (old) of Meerpet village have been notified as the lands under Mosque Abbas Ali Khan. Thus, it is evident that the above lands are religious institution lands.

The Amendment Act 19 of 1994, proviso to Section 4(1) of the A.P. (T.A.) Abolition of Inams Act, 1955 read as follows.

“Provided that where imams are held by or for the benefit of charitable and religious institutions no person shall be entitled to be registered as an occupant under Sections 5, 6 7 and 8 and the institution alone shall be entitled to be registered as an occupant of all inam lands other than those specified in clauses (a) and (c) above without restriction of extent to four and half times the family holding and without the condition of personal cultivation.

Provided further that where any person other than the concerned charitable or religious institution has been registered as an occupant under Sections 5, 6, 7 and 8 after the commencement of the Andhra Pradesh (Telangana Area) Abolition of Inams (Amendment) Act, 1985 such registration shall and shall be deemed always to have been null and void and no effect shall be given to such registration”.

Thus, it is evident that the said lands are Wakf lands and grant of Occupancy Rights Certificate to individuals in respect of Walf lands is not in order.

No individual is entitled to get any Occupancy Rights Certificate on such land and religious institution alone is entitled to get Occupancy rights Certificate. Hence, the Occupancy Rights Certificate issued by the Revenue Divisional

Officer, Ranga Reddy East Division in File No.1/4644/1980, dated 22-12-1980, is set aside and the Revenue Divisional Officer is directed to issue Occupancy Rights Certificate in the name of religious institutions only in light of the above amended Act No.19 of 1994. The orders issued by the Revenue Divisional Officer in File No.1/8484/1980 dated 5-3-1981 has already been set aside in F1/8684/2003 dated 18-2-2006. The interim orders issued vide No.F1/1746/1996 dated 23-12-1996, No.F1/1747/1996 dated 27-12-1996 & F1/1748/1996 dated 15-1-1997 is hereby vacated.

Challenging the said order, dated 09.05.2006, the above writ petition was filed.

Learned counsel for the petitioners submits that the petitioner Nos.2 and 5 died and as such, he filed an application seeking permission to bring the legal heirs on record. Permission is accorded.

The learned counsel for the petitioners further submits that after allowing the writ petitions as aforesaid on 04.01.2002, the Writ Appeals were dismissed and the Special Leave Petition preferred before the Supreme Court was also dismissed on 27.07.2012. In view of the same, he submits that since there is no Notification holding that the said lands belong to the Wakf Board, the order of the Joint Collector, which is mainly based on the Notification, shall not stand.

A perusal of the order of the Joint Collector shows that the order was merely based on the Notification and in view of the setting aside the Notification by this Court and by the Supreme Court, the order passed by the Joint Collector is liable to be set aside and is accordingly set aside.

The writ petition is accordingly allowed. Consequently, miscellaneous petitions pending, if any, shall also stand closed.

A.RAMALINGESWARA RAO, J

24.07.2017
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