

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.33852 OF 2017

Dated:12.10.2017

Between:

Mohd. Afzal Mohiuddin, S/o. Mohd. Murab,
S/o. Mohammed Yakub (Registered GPA)
R/o. 16-11-213/2, Mosarambagh
Malkapet, Hyderabad and another .. Petitioners

And

The State of Telangana, rep., by its
Principal Secretary, Revenue Department,
Secretariat Buildings, Hyderabad and others .. Respondents



The Court made the following:

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ORDER:

Heard.

2. This is a second round of litigation. Earlier, Cheguri Narasimha Reddy and others filed W.P.No.24132 of 2003 challenging the orders of the Joint Collector dated 26.04.2003. The said appeal was preferred against granting Occupancy Rights Certificate (ORC) to vendors of petitioners therein. By the said order, the Joint Collector remitted the matter to the Revenue Divisional Officer to consider the matter afresh and also to enquire into the classification of the lands in question and to pass orders by putting on notice all the persons interested. The petitioners therein claimed that they purchased lands in Survey Nos.121, 122, 124, 125 and 126 of Thattiannaram Village in Hayatnagar Mandal from the persons in whose favour ORCs., were issued. Against issuance of said ORCs., Mohd. Mahamooduddin filed three separate appeals before the District Collector, Ranga Reddy, and the District Collector vide his orders dated 25.06.1985 dismissed the said appeals. Aggrieved thereby, three separate Writ Petitions being W.P.Nos.18202, 19358 and 19362 of 1987 were filed. The said Writ Petitions were disposed of by common order dated 18.07.1990 directing the competent authority to reconsider only on the issue of entitlement of inamdar of the lands for share in the subject lands. However, no further steps were taken pursuant to the said directions. While so, fresh appeals were filed before the Joint Collector in the year 2003 against granting of ORCs. to vendors of the petitioners, whereunder the Joint Collector passed

orders on 26.04.2003 challenged before this Court in W.P.No.24132 of 2003. By judgment dated 19.02.2015, the Writ Petition was allowed and the Court held that the Joint Collector could not have entertained the appeal against the ORCs granted, after more than 23 years and entertaining of such appeal and passing further orders amounts to arbitrary exercise of power. Aggrieved thereby, W.A.No.787 of 2015 was filed. By judgment dated 10.09.2015, the Division Bench of this Court affirmed the decision in the Writ Petition. Thus, the issue of granting ORCs has attained finality.

3. The petitioners claim that the lands in survey numbers mentioned in paragraph No.3 of the affidavit filed in support of the Writ Petition are ancestral properties and therefore a request was made to restore the property perpetually in their favour. After narrating the earlier round of litigation, petitioners further contend that as the Division Bench issued a direction to conduct enquiry, representation was made for conducting enquiry and to fix boundaries, but the respondent authorities did not take any action. Alleging inaction in not conducting enquiry even though a direction was issued by the Division Bench in W.A.No.787 of 2015, this Writ Petition is filed.

4. Learned counsel for the petitioners sought to contend that in the operative portion, the Division Bench held that a fresh exercise should be undertaken and accordingly the matter was remanded and therefore the respondent authorities ought to have considered the claim of the petitioners to conduct a detailed enquiry.

5. The averments in the writ affidavit are vague to show as to how the petitioners are concerned with the subject property. The very claim made by the petitioners that a direction was issued by the Division Bench to undertake fresh enquiry is erroneous. As noted above, the direction of the Joint Collector remanding the matter to the Revenue Divisional Officer was found fault with in the W.P.No.24132 of 2003 and the order passed by him was set aside and the ORCs granted long ago were also set aside, which was affirmed by the Division Bench.

6. At this stage, it is useful to extract operative portion of the order of Division Bench. It reads as under:

“... The remedy of appeal pursued by the appellants against the grant of ORC dated 14.02.1979 is misconceived and definitely not available at this point of time and the Joint Collector without examining the appellate jurisdiction and also the fact that the earlier orders by the same authority were confirmed the granting ORC, erroneously exercise his jurisdiction and remanded the matter for fresh consideration by the Revenue Divisional Officer. We are in full agreement with the view taken by the learned Single Judge and no ground is made out for interference. We confirm the order and dismiss the appeal accordingly.”

7. It appears, by claiming as if the Division Bench issued directions, the petitioners are dragging on the litigation endlessly though no such directions were issued.

8. It is seen from the records that the petitioners were not parties to the earlier round of litigation and it is not stated as to how they are concerned with the subject property vis-à-vis the ORCs granted long ago as affirmed by the Court. Hence, I am of

the considered opinion that it is a frivolous litigation. Therefore, the Writ Petition is liable to be dismissed in *limine*.

9. The Writ Petition is accordingly dismissed with costs of Rs.1,000/- to be paid to the High Court Legal Services Committee.

Miscellaneous Petitions, if any, pending in the Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:12.10.2017

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