

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.29720 OF 2017

Dated:04.09.2017

Between:

Ashok Singh, S/o. Late Lakhan Singh,
Age 61 years, Occ: Business,
R/o.H.No.13-1-575, Gandhi Hanman,
Mangalhat, Dilawargunj, Hyderabad,
Telangana State

.. Petitioner

And

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

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.29720 OF 2017****ORDER:**

Heard.

2. Petitioner claims that he is the owner and possessor of land admeasuring 6,000 sq. yards in Survey No.51 of Shah Shiblipahadi, Kulsumpura Village, Hyderabad, having purchased the same on 06.06.1973. He executed a registered Gift Settlement Deed in favour of his wife, daughter and two sons to an extent of 1,400 sq. yards and 2,758.80 sq. yards. He alleges that adjacent to the land in Survey No.51, his late father was having land to an extent of 62,630 sq. yards in Survey No.50. Since there was a dispute regarding the said land, O.S.No.2522 of 2004 was instituted in the Court of XVII Additional Senior Civil Judge, City Civil Court, Hyderabad, with regard to possession of the land in the said survey number. The said suit was dismissed and thereafter C.C.C.A.No.25 of 2017 was filed and the same is pending before this Court. Under the guise of the judgment rendered in the suit, respondent authorities demolished the existing structure.

3. According to learned counsel for the petitioner, the said structures actually exist in Survey No.51 and in the guise of the judgment rendered in the suit, the respondent authorities encroached into the land of Survey No.51.

4. However, the facts on record would disclose that against the tenant, petitioner instituted O.S.No.1467 of 2015 praying to evict the tenant. At that stage, the implead application filed by the

Tahsildar vide I.A.No.307 of 2015 was dismissed by order dated 08.06.2016 on the ground that the said application was filed belatedly and that it is a suit for eviction by the owner against his tenant. This Writ Petition is filed claiming that under the guise of taking possession of the land in Survey No.50, the respondent authorities are encroaching into the land of Survey No.51.

5. Learned Government Pleader for Revenue, on instructions, would submit that in fact several other suits were instituted with regard to the land in Survey No.50 and all the suits were dismissed as the land in the said survey number belongs to the Government.

6. The facts, as noted briefly, would disclose that the petitioner was unsuccessful in the suit filed against the State insofar as the land in Survey No.50 is concerned. According to the petitioner, his tenant occupied the land in Survey No.51 and for eviction of his tenant, he filed O.S.No.1467 of 2015. Be that as it may, no material is placed to show that the Government is interfering with the land, as claimed by the petitioner, in Survey No.51, whereas, admittedly, the petitioner was unsuccessful insofar as the land in Survey No.50 is concerned. Nothing prevented the petitioner from raising appropriate issue in the pending C.C.C.A., if so advised, and taking appropriate legal course of action. Even by the very nature of averments made in the affidavit and submissions made by learned counsel for the petitioner it appears petitioner is raising a dispute with reference to the extent of land in Survey No.50 and encroaching into the land in Survey No.51. If that is so, the Court cannot, in exercise of power of judicial review, go into the disputed questions of fact, more particularly the dispute concerning the

boundaries. If claim of the State is that the land in Survey No.50 is Government land and the respondent authorities are entitled to take possession of the said land after the suit was decreed in their favour, it cannot be said that the action of the respondent authorities is illegal. However, any decision taken by the respondent authorities would ultimately abide the result in the pending appeal.

7. The Writ Petition is accordingly dismissed leaving it open to the petitioner to work out his remedies as available in law on the claim made by him in the Writ Petition. There shall be no order as to costs.

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

Date:04.09.2017

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P. NAVEEN RAO, J

