

HON'BLE SRI JUSTICE S. V. BHATT

Writ Petition No.3627 of 2010

ORDER:

The petitioner prays for the following relief:

“...writ of *mandamus* declaring the action on the part of the respondents in declaring the action of the Respondent in demolishing the compound wall, watchman quarter and destroying crop in Ac.1.00 of land in Sy.No.324 of Puppalaguda Village, Rajender Nagar Mandal, Ranga Reddy District, is illegal and unconstitutional and consequently direct the authorities to reconstruct the compound wall.”

2. The case of petitioner, briefly stated that he purchased an extent of Ac.1.00 in Sy.No.324 of Puppalaguda Village, Rajendernagar Mandal, vide registered sale deed dated 13.05.2009, from the original allottee of Evacuee property and some of the persons who were claiming certain rights over this land. Both these parties executed the sale deed. After the sale deed was executed, he made representation to the authorities for amendment in revenue records. He also raised crop and constructed a compound wall. It is further case of petitioner that the land in Sy.No.324 admeasuring Ac.12.10 guntas was originally in Evacuee property and it was allotted to one Jaisa Bai, displaced women, in the year 1963. G.O.Ms.No.1091 dated 06.06.2005 was issued under Section 22-A of the Registration Act, declaring that the lands in Sy.No.324 were prohibited from registration. Then, various departments of the government Evacuees and other persons made representations to the authorities and requested for enquiry. The District Collector, after conducting enquiry, G.O.Ms.No.1961 dated 19.11.2005 was issued, deleting some lands from prohibitory notification dated 06.06.2005 and Sy.No.324 was mentioned at S.No.18. Thus, as on today, there is no claim of the Government on Sy.No.324. After notification, S. Yadi Reddy

and others purchased the entire land from original allottee and then petitioner purchased the subject property from them. It is further case of petitioner that the Tahsildar issued proceedings on 28.07.2009 making appropriate entries in the revenue records.

3. In support of his case, petitioner relies on the annexures i.e., (1) Proceedingsno.B/ 777/ 2008 dated 28.07.2009, (2) Lr.No.B/ 777/ 2009 dated 22.01.2010 of the Dy. Collector & Tahsildar, Rajendranagar Mandal, Ranga Reddy District, (3) Gazette Notification No.560 dated 01.08.2005, (4) G.O.Ms.No.1961 dated 19.11.2005, (5) copy of the registered sale deed dated 13.05.2009 in favour of the petitioner and (6) photos (3).

4. Now assumption of encroacher/ petitioner is that at best he will be treated as encroacher and the respondents cannot dispossess the petitioner except in accordance with law. This court has difficulty to accept the said contention for the simple reason that the burden is on the petitioner to discharge that the petitioner acquired right and title from the owner of property, which resulted in enjoying possession to the property, described in the documents relied by petitioner.

5. In the case on hand, admittedly, no document is filed to enable the court to consider whether the plea of possession pleaded by petitioner can be refined at least to the level of encroacher and there after call upon respondents to follow the procedure of law for seeking eviction or dispossession from the subject matter of writ petition.

6. Further a few stray averments in the counter-affidavit cannot be converted to assist petitioner or go that far and relieve petitioner of the burden cast on him in this behalf. Therefore, this contention also

fails and rejected. The petitioner if has right or title to the subject matter of writ petition and has grievance or cause of action against respondents must work the prayers in a suit before civil court. The writ petition is misconceived.

7. The writ petition is accordingly dismissed. No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

Date: 29.08.2017
BSS

S.V.BHATT, J



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