

HON'BLE SRI JUSTICE S. V. BHATT

Writ Petition No.23165 of 2017

ORDER:

Heard Mr. Jogram Tejavath for petitioner and the learned Assistant Government Pleader for Respondents 1 to 6.

2. The petitioner prays for *mandamus* complaining against the action of the respondents in trying to dispossess the petitioner from its possession and enjoyment of the land in Sy.No.149/ A1 in an extent of Ac.1.32 guntas and Sy.No.189/ 7 in an extent of 30 guntas at Mohamadha Puram Village, Tirumalayapalem Mandal, Khammam District, as illegal, arbitrary and unconstitutional. The petitioner prays for a further direction restraining the respondents from interfering with petitioner's activities of Tribal Development in running a School in Sy.No.189/ 7.

3. Substantially, the prayer of petitioner deals with two survey numbers. The first is Sy.No.149/ A1 in an extent of Ac.1.32 guntas and another is Sy.No.189/ 7 in an extent of 30 guntas. The prayer refers comprehensively to the alleged interference by respondents into petitioner's possession of these two survey numbers. The petitioner has filed very detailed objections referring to how the petitioner has come into possession of patta land and the Government land and the pendency of appeal before 4th respondent. Briefly stated, the case of petitioner is that respondents by any stretch of imagination cannot and could not interfere with the actual physical possession and enjoyment of Sy.No.149/ A1 in an extent of Ac.1.32 guntas. As far as Sy.No.189/ 7 measuring 30 guntas is concerned, as the appeal is pending, the interference with the right of the petitioner either in dispossession or

change of physical features would result in hardship and prejudice to petitioner, besides such interference being illegal and unconstitutional.

4. At request of the respondents, the writ petition underwent two adjournments and finally directed to be listed today to enable the respondents to file counter-affidavit or instructions in this behalf. The Tahsildar, Tirumalayapalem Mandal, has sent written instructions dated 17.07.2017. The 5th respondent, through written instructions dated 17.07.2017 explains the location of Sy.Nos.149/ A1 and 189/ A, and submits that the respondents are not interfering with Sy.No.149/ A1 and Sy.No.189/ 7 is covered by the order of this court in WP No.573 of 2013. On the cause of action stated by the petitioner viz., changing physical features and constructing pucca building in Sy.No.189, the answer is that the District Collector, Khammam allotted an extent of Ac.7.16 guntas in Sy.No.189/ 2 and 3 to the Tribal Welfare Department for construction of a school building and the construction activity is undertaken in Sy.No.189/ 2. The court considers it appropriate to excerpt the written instructions dated 17.07.2017.

“..I submit that Sri Dr.Bhukya Lazarus Lalsingh S/o Balyanandam, Social worker is having patta land in Sy.No.149/ A1 to an extent of Acs.1.24 gts situated at Mohammadhapuram village of Tirumalayapalem Mandal it is a patta land.

It is further that he is claiming land in Sy.No.189/ 7 to an extent of Acs.0.30 gts situated at Mohammadhapuram village of Tirumalayapalem Mandal which is as a government land. The Sy.No.is having Acs.114.06 gts some extent was assigned to land less poor persons. I submit that as per the orders of the District Collector, Khammam, Government land in Sy.No.189/ 2 & 189/ 3 to an extent of Acs.7.16 gts was allotted to the Tribal Welfare Department for construction of school building. On this issue the petitioner has approached Hon'ble High Court of Telangana State and filed W.P.no.573/ 2013 and obtained interim directions are as follows.

“In the counter affidavit it is admitted that the subject land of an extent of Ac.0.30 guntas in Survey No.189/ 7 is being used for the welfare of the scheduled tribes.

Sri Jogram Tejavath, learned counsel for the petitioner, would place before this court certain photographs in support of his submission that the petitioner is running a school for the benefit of the children of the scheduled tribes.

The validity or otherwise of the impugned proceedings necessitates detailed examination.

Pending further orders, the petitioner shall not be dispossessed from the subject land. It is made clear that the petitioner shall also not make any further construction, change the nature of the land, create third party rights and alienate the land until further orders.”

As per the Hon'ble High Court orders the Respondent No.5 never interfere with the peaceful possession and enjoyment the land of the petitioner till to date. I further submit that the Hon'ble High Court in W.P.No.573/ 2013 finally disposed of the case with a direction of the Respondent No.4 (Revenue Divisional Officer, Khammam) to finalize the appeal petition filed by the petitioner.

It is further submitted that the Respondent No.4 (Revenue Divisional Officer, Khammam) has not finalize the appeal petition, and pending before the Respondent No.4 (Revenue Divisional Officer, Khammam). The Respondent No.5 never interfere with the peaceful possession of his land in Sy.No.189/ 7 to an extent of Acs.0.30 gts situated at Mohammadhapuram village of Tirumalayapalem Mandal which is far away to his patta land in Sy.No.149/ a1 to an extent of Acs.1.24 gts situated at Mohammadhapuram village of Tirumalayapalem Mandal. The said Sy.No.149/ a1 is a patta land. The Respondent No.5 is not interfering with the said land.”

5. From the above, this court is satisfied that the respondents are not interfering with the possession and enjoyment of Sy.No.149/ A1 and also Sy.No.189/ 7 and the construction is undertaken in Sy.No.189/ 2.

6. Mr. Jogram Tejavath, counsel for petitioner, contends that the changes shown through photos are happening on ground in Sy.No.149/ A1 and 189/ 7. Therefore, he tries to persuade the court by relying upon the photographs filed as annexures to pass appropriate orders. This court after perusing the photographs filed by petitioner is of the view that the

exact location of property in a huge extent of Ac.114.06 guntas in Sy.No.189 cannot and could not be narrowed down or appreciated by reference to photographs filed by petitioners. Therefore, the petitioner, if so advised, has to workout the remedies elsewhere, including in the pending appeal before the Revenue Divisional Officer.

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

Date: 18.07.2017
BSS

S.V.BHATT, J



HON'BLE SRI JUSTICE S.V. BHATT

19

Writ Petition No.23165 of 2017



Date: 18.07.2017

BSS