

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.17953 of 2017

ORDER:

The case of the petitioner is that she is the owner and possessor of property covered in premises bearing Municipal No.17-9/144, admeasuring 328 square yards situated at Kurmaguda, Saidabad, Hyderabad by virtue of gift granted in favour petitioner by her father by name Mohammed Abdul Gafoor and same was confirmed by executing memorandum of gift dated 04-11-2016. After that the petitioner has obtained electricity connection on her name and paying electricity bills as well as obtained municipal trade licence in the name of her husband and doing juice business under the name and style of 'Madina Lassi and Cool Drinks'. The petitioner has obtained election identity card and household card on her name in respect of schedule land. It is stated that her father Abdul Gafoor in turn got the subject land from his father Mohammed Abdul Rahman, who in turn purchased the same from one Mohammed Chand by virtue of registered sale deed dated 25-07-1968 bearing document No.2250 of 1968 by paying valuable consideration. Since then, the subject land is in possession and enjoyment of predecessors-in-title of the petitioner from 1968 onwards. It is also stated that municipal authorities i.e. the 8th

respondent acquired some portion of the subject land for road widening purpose from the father of petitioner and paid compensation to him. After death of her husband, the petitioner's son is continuing the said business. The father of the petitioner was paying arrears of property tax. The petitioner approached the municipal authorities for mutation of her name in municipal records. But municipal authorities stated that until arrears of property tax, mutation cannot be done. It is stated that municipal authorities have also got issued notice dated 16-02-2006 to her father to pay arrears of tax amounting to Rs.15,750/- when he was owner. When the respondents 3, 7 and 8 have made an attempt to dispossess father of petitioner from the subject land, her father filed WP.No.12024 of 2013 before this Court and obtained interim direction in WPMP.No.14874 of 2013. Since the property devolved by virtue of gift in favour of the petitioner, the petitioner filed writ petition aggrieved by the action of respondents in trying to demolish the property.

Counter affidavit is filed by the 6th respondent stating that subject land is identified on the ground in Sy.No.249/P correlated to TS.No.2, Block-D, Ward 175 of Saidabad village and Mandal of Hyderabad District. As per town survey land records, town survey number 2 recorded in Col.No.10 as "Jail Khana" and total extent

shown in Col.No.17 as 10412 square meters and Col.No.20 recorded as “Jail Khana”, which is classified as government land. It is further stated that people in that locality are residing without any basic amenities and as such, the Government has taken a decision to take-up 2BHK housing scheme in respect of slums existing in the government lands and allot the houses to the eligible families and accordingly, a socio-economic survey was conducted and 98 eligible beneficiaries were identified and possession certificate list has also been issued to the beneficiaries. As the petitioner is running Lassi shop in the subject land, her name is not considered as eligible person for 2BHK housing scheme. It is further stated that the petition schedule land falls in Sy.No.249/P correlated to T.S.No.2/p, block-D, Ward 175 of Saidabad village which is classified as government land. Hence, the sale deed executed in respect of government land has no validity in the eye of law and sought for dismissal of writ petition.

Heard learned Assistant Government Pleader for Revenue.

Sri Pasham Krishna Reddy, learned Standing Counsel for respondent-Corporation submits that authorities of municipal Corporation are not taking any action except following due procedure. He also produced

instructions issued by Tahsildar, wherein it is stated that subject land falls in Sy.No.249/p correlated to T.S.No.2p, Block-D, Ward-175 of Saidabad Village in Col.No.10 recorded as “Jail Khana” and in Col.No.20 recorded as “G Jail Khana” which is government land and a social economic survey was conducted and 98 beneficiaries were identified as eligible for allotment of 2BHK housing scheme and found the petitioner is running Lassi shop in said locality and using for commercial purpose, she is not considered to be eligible for 2BHK housing scheme and admitted that petitioner is running Lassi shop with temporary asbestos house. As such, the petitioner cannot claim title over the said land as it is classified as “G Jail Khana” and all the documents produced by her are not valid documents.

Now it is to be seen that though the petitioner asserted that her grand father purchased the subject land through registered sale deed in the year 1968 and thereafter, the petitioner became owner of the same by virtue of gift deed and in the counter affidavit, it is stated that the respondent-authorities are not going to take action for demolition of the property in the subject land and it is stated that a socio-economic survey was conducted for allotment of 2BHK houses and subject land

is recorded as government land and possession of the petitioner also admitted in the same.

In view of above facts and circumstances of the case, the writ petition is disposed of directing the respondent-authorities not to evict the petitioner without following due process of law. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

05-07-2017

Note:
Issue C.C. by Monday.
B/o
Nvl





