

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.25830 OF 2012

ORDER:

The petitioner basing on possessory agreement of sale dated 07.09.1994 prays for the following relief:

“... this Hon'ble Court may be pleased to issue a Writ order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in granting D-Form patta in favour of the 4th Respondent relating to the land of the Petitioner over an extent of Ac.1-50 cents in old Sy.No.5/1 & 5/2 of Thripuram Village, Nekarikallu Mandal, Guntur District with corresponding new Sy.No.77/1 & 77/3 in Fair Location Register (FLR) under the guise of Government land and then restraining the Petitioner from entering into the said land under the guise of resumption of the said land as illegal, arbitrary, unconstitutional, and against to the principles of natural justice and to pass....”

The petitioner states that he is in possession and enjoyment of the subject matter of the writ petition. The Tahsildar/1st respondent, owing to a scam that took place in Nekarikallu Mandal, through proceedings Rc.No.326/2010/A dated 16.11.2010 and 17.11.2010 resumed an extent of Acs.36-48 Cts, which includes the land of petitioner. The petitioner submitted representation to the Revenue Divisional Officer/2nd respondent for deleting the subject matter of writ petition from the extent resumed by the 1st respondent. The 2nd respondent called for a report from the 1st respondent. The petitioner came to know from the report of the 1st respondent that Sy.No.5 was included in Sy.No.69 by recording it as unsurveyed hill poramboke. Sy.No.69 was further divided and new Sy.Nos.70 onwards were formed and was assigned to various persons.

The petitioner further states that Sy.Nos.5/1 and 5/2 are in Sy.Nos.77/1 & 77/3 and an extent of Acs.1-47 Cts was recorded in the fair location register. The revenue officials assigned the land of petitioner to 4th respondent by showing Sy.Nos.77/1 and 77/3 and issued pattadar passbook. The 4th respondent in turn alienated the land in favour of M/s Ramky Infrastructures for non-agricultural purpose. The respondents, by affixing a notice, are not permitting the petitioner to enter the subject matter of writ petition. Hence, the writ petition.

On 05.09.2012, this Court granted interim direction to respondents not to interfere with the petitioner's possession and enjoyment from the subject matter of the writ petition.

Respondents 1 to 3 filed counter affidavit. Respondent No.4 also filed counter affidavit and a petition to vacate the interim order. The relevant portion of the counter affidavit filed by respondents 1 to 3 reads as follows:

“It is respectfully submitted that the land claimed to have purchased on agreement of sale by the petitioner in old survey No.5/1 & 5/2 and the corresponding new Sy.Nos.77/1 and 77/3 of Tripurapuram village is an assigned land as per the present record, as reported by the Mandal Surveyor, Nekarikallu. In contrast, the writ petitioner is claiming the said land as if purchased on agreement of sale from somebody else. Thus, the petitioner has no right to claim the land under agreement of sale that too on an assigned Government land”.

The petitioner filed reply affidavit along with additional papers to substantiate his claim on the right and possession of the subject land.

The prayer pre-supposes that the schedule property covered by possessory agreement viz., Sy.Nos.5/1 and 2 of Thripuram Village corresponds to new Sy.Nos.77/1 & 3 in Fair Location Register. This Court is not inclined to entertain the writ petition for two reasons viz., that the petitioner is a possessory agreement holder and also that the location or identity of property covered by the possessory agreement and the property now claimed by the petitioner are different. Whether Sy.Nos.5/1 and 2 corresponds to Sy.Nos.77/1 and 3 are matters of trial and adjudication by the competent civil Court. Though Mr.Chinnapa Reddy has tried to persuade this Court to record a finding on the right and possession of petitioner basing on annexures filed in the writ petition and W.P.M.P.No.37656 of 2016, this Court from the material available on record is not persuaded, and grants liberty to the petitioner to work out all the remedies available in this behalf in a properly instituted suit.

It is made clear that this Court has not considered the merits of petitioner's case or the objections raised by the respondents and shall not be understood as expressing any view in this behalf.

The writ petition is, accordingly, dismissed. There shall no order as to costs.

Consequently, pending miscellaneous petitions, if any, stand closed.

2nd August, 2017

Lrkm

S.V.BHATT, J