

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

Writ Petition No.19041 of 2008

ORDER:

Heard Sri C.Raghu, learned counsel for the petitioner, and the learned Government Pleader for Assignment. The relief sought for in this writ petition is to declare the action of the Tahsildar, Marredpally Mandal, in illegally trying to dispossess her from the subject house bearing No.10-5-779/159, Venkat Nagar, Thukaram Gate, Secunderabad pending consideration of her application for regularisation in terms of G.O.Ms.No.166 dated 16.02.2008 as arbitrary and illegal.

Sri C.Raghu, learned counsel for the petitioner, would draw my attention to the notice dated 18.06.2008, which is addressed to the petitioner at house No.10-5-779/159. Learned counsel would also refer to the acknowledgment issued by the Regularisation Authority on 17.07.2008 acknowledging receipt of the petitioner's application for regularisation. He would refer to the counter affidavit, wherein the respondents had stated that the petitioner was claiming the land on the strength of Municipal House No.10-5-779/152, to submit that the Tahsildar had evidently proceeded under a misconception since it is clear from the notice itself that the petitioner's house number is "10-5-779/159" and not "10-5-779/152".

On the other hand, the learned Government Pleader for Assignment would draw my attention to the averments in the counter affidavit that the subject land is earmarked, in the layout, as open space for community purposes; since then the land was vacant, and was under the supervision of the Government; adjacent to the said layout, plot No.20 was allotted to the petitioner's mother, who constructed a house on the said plot and is living there; the petitioner also stayed with her mother in the said allotted house; taking advantage of the vacant land situated adjacent to her mother's house, the petitioner had encroached upon it, and had erected a hut; local residents had made a complaint

about the encroachment; after taking police assistance, the encroachment was removed, and a “Government land” sign board was erected on the ground; and a letter was also addressed to the municipal authorities to take up construction of the community hall in the said land.

No affidavit has been filed by the petitioner in reply thereto.

The averments in the counter affidavit, that the subject land is meant for open space, is not in dispute. Even otherwise G.O.Ms.No.166 dated 16.02.2008, in terms of which the petitioner had applied for regularisation, was subjected to challenge before this Court in PIL.No.517 of 2013 and a Division Bench of this Court on 10.09.2015 recorded the submission of both the Governments of Telangana and Andhra Pradesh that the said G.O. would not be given effect to. Consequently, the petitioner’s claim for regularisation under the said G.O. is not being considered by the respondents.

Sri C.Raghu, learned counsel for the petitioner, would submit that the petitioner may atleast be permitted to avail such other remedies as are available to her in law.

Since the subject land is earmarked as an open space for community purposes, we see no reason to disable the respondents from taking action, in accordance with law, to ensure that the subject land is used for community purposes. This order shall, however, not preclude the petitioner from availing such other remedies as are available to her in law.

The Writ Petition, however, fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

24th March, 2017
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Date: 24.03.2017

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