

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.37489 of 2017

ORDER:

Petitioners have filed this Writ Petition assailing the letter No.E1/1792/2017 dt.20-06-2017 of the District Collector, Ranga Reddy District addressed to the 7th respondent whereunder the District Collector, on the basis of report of Executive Engineer, North Tanks of Hafeezpet village, Serilingampally Mandal while expressing that subject land is not getting affected under FTL/Buffer Zone of Meedi Kunta and it is 18.00 mts away from the nearest FTL point, made certain observations on the adjudication made by this Court in C.S.No.14 of 1958 and expressed an opinion that the land belongs to State Government.

2. Learned counsel for petitioners contends that these comments by the 3rd respondent, while determining whether the subject land is within FTL or not, are totally unwarranted. He also placed reliance on the order dt.01-02-2011 in O.S.A.No.18 of 2010 wherein this Court rejected the contentions of the State Government opposing the passing of final decree in C.S.No.14 of 1958.

3. In the said judgment, a Division Bench of this Court recorded that the preliminary decree in C.S.No.14 of 1958 had become final. It further noted that the attempts made by the State Government as well

as other parties to challenge the preliminary decree in the year 1958 were rejected. The Bench also observed:

“18. There is absolutely no dispute in regard to the aforesaid proceedings mentioned above, in which not only the State but also the parties and their predecessors in interest are very much represented. Undisputedly, the preliminary decree was passed in the main suit which was filed long back in the year 1958. The attempts made by the State as well as the other parties, have been proved futile and proved rejected and confirmed. The State Government itself has accepted to deliver the possession of the lands in question as per the orders in Application Nos.19 and 114 of 1973, dated 05-07-1974. Acting on the same, it is the State itself, which has filed petitions in Application No.44 of 1982 for amendment of the decree to delete the very same Item Nos.37 and 40 of Schedule IV from the suit schedule. But the same was rejected after contest. This order was confirmed by a Division Bench of this Court in O.S.A.No.1 of 1985 by orders, dated 24-12-1999. Again, even the attempt made by the State to prefer an appeal to the Apex Court stood rejected, and thus, not only the preliminary decree but also the varied situation stood confirmed and the same has become final. Even the attempt made by the State to assail the preliminary decree at a very belated stage, has failed as per the orders in O.S.A.S.R.No.3526 and 3527 of 2000, dated 17-02-2001 and again this order was also confirmed by the Apex Court as per the orders in S.L.P.No.10622 and 10623 of 2001, dated 16-07-2001. There has been change of hands by transfers and assignments and the same was duly accepted and has become final as per the orders in O.S.A.Nos.19 to 26 of 2001, dated 24-08-2001 and even this latter order also stood confirmed by the Apex Court as per the orders in S.L.P.Nos.4463 to 4470 of 2002, dated 08-04-2002. Even an attempt made by the State for a review was rejected by the Apex Court on 31-07-2002. There is again reiteration of the very same situation in the proceedings in O.S.A.Nos.19 to 26 of 2001, Application No.145 of 2007, O.S.A.Nos.58 and 59 of 2007, Application No.64 of 1983 and O.S.A.No.59 of 2006. There is, thus, a consistent reiteration and confirmation about this stage of events repeatedly on more than

one occasion on the judicial side and that too on the attempts made by the parties and the State. Therefore, it cannot be said that any attempt, be it at the instance of the parties or even suo moto, cannot find any valid and sound legal basis to fall back and much less to reverse the situation.”

4. Having regard to the above findings in the said order and having regard to the doctrine of *res judicata* which applies, it is unfortunate that 3rd respondent has chosen to express opinion on the title to the property contrary to the adjudication made by this Court in C.S.No.14 of 1958.

5. In my considered opinion, these observations by him practically amount to his sitting in appeal over the orders passed by this Court as well as Supreme Court and are definitely not in good faith and *bona fide*.

6. Therefore, the impugned letter dt.20-06-2017, insofar as observations made by 3rd respondent in para Nos.4, 5 and 7 with regard to adjudication in C.S.No.14 of 1958 are concerned, are expunged.

7. The Writ Petition is allowed as above. No costs.

8. As a sequel, miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07-12-2017

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