

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.2183 OF 2016

ORDER:

This petition is filed under Article 226 of the Constitution of India, to direct the 4th respondent to fix the boundaries of the petitioner land in Sy.No.117/2/U, in an extent of Ac.0.26 gts, situated at Shamshabad Village and Mandal, Ranga Reddy District.

In similar set of circumstances, this Court passed an order in W.P.No.6690 of 2016 dated 03.03.2016, the operative portion of which reads as follows:

“7. Merely because there is no specific provision in AP Survey and Boundaries Act, 1923 (for short ‘the Act’) providing survey of private lands, it cannot be said that the authorities in the Survey Department of the State Government are prohibited from doing survey of private lands. Unless such a prohibition is provided in the Act, as public servants having expertise in doing survey (like other experts in fields of ballistics, handwriting, DNA etc.), it is incumbent on the officials of the Survey Department of the State Government to survey private lands if a request to that effect is made after collecting the necessary charges therefor. The circulars referred to above as well as other Government G.Os. issued by the Revenue Department in this regard would be binding and would govern the procedure to be followed in respect of survey to be conducted for private patta lands as well.

8. As held by this Court in Hyderabad Potteries Pvt. Ltd. Vs. Collector, Hyderabad District and Another the scheme of the AP Survey and Boundaries Act, 1923 would make it clear that the survey made under the said Act is mainly intended for the purposes of identification of the land and fixation of boundaries and there is no provision under the said Act for making any detailed enquiries with regard to right, title and interest of the persons in the land. Persons who are aggrieved by any decision referred to in the survey have liberty to approach the appropriate Civil Court for adjudication, if needed. There is also a remedy under Section 11 of the said Act to the appellate authority constituted under the Act instead of Commissioner of Survey, Settlement and Land Records. As held in Khaja Naseeruddin and others Vs. Commissioner, survey, Settlement and Land Records, Hyderabad and others, if survey is sought by a person, after issuing notice on parties interested and in particular the registered holders of land, the concerned official should conduct survey and demarcation in their presence.

9. The above principles are to be kept in mind and the above circulars are to be followed by the respondents while conducting survey of private lands under the Act.

10. In this view of the matter, the Writ Petition is allowed and The 5th respondent is directed to cause a survey for demarcating the lands of the petitioners by considering the representations dt.04-02-2013, 10-12-2015 and 14-12-2015 submitted by the petitioner after collecting necessary charges therefor within eight weeks from the date of receipt of a copy of this order after issuing notice to the petitioner and other affected parties and communicate his decision thereon to the petitioner. No costs.”

Let there be a similar order even in this case.

In the result, the writ petition is allowed, and the 4th respondent is directed to cause a survey for demarcating the lands of the petitioner by considering the representation submitted by the petitioner after collecting necessary charges therefor within eight weeks from the date of receipt of a copy of this order after issuing notice to the petitioner and other affected parties and communicate his decision thereon to the petitioner.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:23.04.2018

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