

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.1429 of 2018

ORDER:

Heard learned Senior Counsel Sri Vedula Venkataramana appearing for the petitioners, learned Government Pleader for respondent Nos.1 to 4, and the learned Counsel for respondent No.7.

The case of the petitioners is that they are the absolute owners and possessors of land admeasuring 5300 square yards out of 5700 square yards in Survey No.332 of Nizampet Village, Bachupally Mandal, Medchal, Malkajgiri District. They claimed to have purchased an extent of 5300 square yards under a registered sale deed dated 09.11.2016 and the remaining land of 400 square yards is under an agreement of sale. They further state that their vendors purchased the land from the original owner Sri Kummari Jeethaiah and his legal heirs under document No.15421 of 2013. The said Kummari Jeethaiah was the owner of total extent of Acs.4.00 of land in Survey No.332 of Nizampet Village and he was given permission under Rule 9(g) of the Laoni Rules by proceedings of the Tahsildar dated 15.08.1961 to hold the land on payment of market value. The said Sri Kummari Jeethaiah died and his legal heirs succeeded to the property.

It appears that when the Government proposed to conduct an auction to an extent of Acs.10.00 of land in Survey No.332,

the said Sri Kummari Jeethaiah and four others filed W.P.No.19605 of 2003 before this Court and objected to the auction on the ground that they were issued Form G certificates in respect of the said land under Rule 9(g) of the Laoni Rules on 15.08.1961 and since then they were cultivating the said land. The notification was set aside by this Court on 03.01.2012 as by that time in view of the interim order passed by the Court, the auction could not be held.

It appears that the Government issued G.O.Ms.No.1146, Revenue (ASN.V) Department, dated 30.08.2007, permitting the District Collector, Ranga Reddy District, and the Chief Commissioner of Land Administration to alienate the land of an extent of Ac.1.00 in Survey No.332 of Nizampet Village in favour of respondent No.7 and the legal representatives of Sri K.Krishna Reddy in lieu of their land being occupied for Electrical Sub Station. Thereafter, possession of the land was also handed over to respondent No.7 on 24.10.2007. Respondent No.7 appears to have addressed a letter on 14.11.2017 to the second respondent informing him that some land grabbers started fencing the land and his daughter-in-law contacted the Circle Inspector and Sub-Inspector of Bachupally Police Station to stop the development, but no action was taken. He sought enquiry into the matter personally. On the basis of the said letter, the Tahsildar was asked to enquire and he submitted a report on 21.11.2017. Based on the said report, respondent No.3 passed an endorsement on 15.12.2017 giving

narration of the events and ultimately holding that respondent No.7 is the rightful owner and possessor of the land which was already handed over on 24.10.2007 as per the Government allotment vide G.O.Ms.No.1146, dated 30.08.2007, and informed him that he has every right to enter into the land. He was also advised to take Police assistance from the SHO concerned. A copy of the endorsement was marked to the Commissioner of Police, Cyberabad, and SHO, Bachupally, to provide necessary Police protection. The said endorsement is challenged in the present Writ Petition on the ground that respondent No.3 has no jurisdiction to pass the endorsement indicating and determining the rights of the parties and also directing the Police to provide necessary Police protection.

Learned Senior Counsel for the petitioners submits that the rights of the parties cannot be determined by respondent No.3 and if respondent No.7 has any grievance with regard to the protection of the property, he should have taken appropriate steps in accordance with law.

Learned Government Pleader submits that the title claimed by the petitioners is defective and the learned Counsel for respondent No.7 submits that since the possession of respondent No.7 is threatened he submitted the application.

A reading of the impugned endorsement merely shows that respondent No.7 was informed of his right to enter the land with the Police assistance and in the said process, respondent

No.3 had narrated the events leading to such conclusion. The narration of facts cannot be held to be determinative of the right of the parties and if there is any dispute with regard to the rights of the parties, it is always open to the parties to work out their remedies in accordance with law. So far as the opinion expressed by respondent No.3 with regard to the *prima facie* right of respondent No.7 to enter the land by taking Police assistance is concerned, this Court sees no ground to interfere with the said observation or opinion. As the observation made in the last paragraph of the impugned endorsement dated 15.12.2017 is not affecting the rights of the parties, except clarifying the position, this Court is not inclined to interfere with the said endorsement. If the parties feel that their rights are affected, it is open to them to work out their remedies in accordance with law.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

22.01.2018
vs