

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.27262 OF 2006

ORDER:

This writ petition is filed to declare the action of the respondents in highhandedly taking possession of petitioner's vacant house site plot bearing No.21 in Survey No.124/O, admeasuring 278.0 Sq. yards or 232.0 Sq. meters situated at Gopanpally Village and Gram panchayat, Serilingampally Revenue Mandal, R.R. District, without following the provisions of the Land Acquisition Act, 1894 (for short 'the Act'), without notice to the petitioner and without payment of any compensation as mandated under the Act, as illegal and unconstitutional.

2. The case of the petitioner is that he is the owner of a vacant house site plot bearing No.21 in Survey No.124/O admeasuring 278.0 Sq. yards or 232.0 Sq. meters situated at Gopanpally Village and Gram panchayat, Serilingampally Revenue Mandal, R.R. District. He had purchased the same from the original owners, viz., Sri Mohd. Faiyyaz Khan Khalidi and Sri Mohd. Ghouse Khan Khalidi on 13.04.1994, through a registered sale deed for a valid consideration of Rs.11,120/-. Ever since the date of purchase in the year 1994, the petitioner has been in an uninterrupted possession of the subject land. The certificate of encumbrance of

property dated 22.10.2006 clearly shows that the petitioner is the executant and claimant of the subject land.

The petitioner further states that in the month of March, 2006, the respondents without issuing any notice to the petitioner and without following due procedure as mandated under the Act, occupied the petitioner's land. The petitioner has no knowledge about the acquisition proceedings. The name of the petitioner did not figure in the Section 4(1) notification and no benefit was extended for submitting objections to Section 5-A enquiry. The petitioner further states that he was deprived of the benefit under Section 5-A of the Act, Section 17(3-A) was not followed and he was not paid 80% of the compensation.

The petitioner further states that he submitted detailed representations dated 20.04.2006, 06.07.2006 and 21.09.2006, requesting the respondents to look into the matter and pay compensation at the earliest for his vacant house site plot bearing No.21 in Survey No.124/O admeasuring 278.0 Sq. yards or 232.0 Sq. meters, situated at Gopanpally Village and Gram panchayat, Serilingampally Revenue Mandal, R.R. District, which is highhandedly taken over by the respondents. But, the respondents have not considered the representations of the petitioners. Then, the writ petition came to be filed.

3. The first respondent filed counter-affidavit denying the averments of the affidavit filed in support of the writ petition and stated that the land in Survey No.124 of Gopanpally Village to an extent of Ac.279.38 gts. was recorded as 'Poramboke Sarkari' as per revenue records i.e., Pahani for the year 1953-54 and in Khasra Pahani for the year 1954-55, the same was recorded as under:

“a. 124/A1, Extent Ac.46-18 gts recorded as Sarkari i.e., Government land. The above land was allotted to APIIC and in turn the same has been re-allotted to WIPRO by the APIIC.

“b. The balance area of Ac.232-20 gts has been sub-divided into 43 parts and Sri Surendra Mohan and 42 other person's names were recorded in pattedar Column. Out of the above for an extent of Ac.119-22 gts., the Collector, Ranga Reddy District has issued NOC vide reference No.E1/6719/2007, Dated: 16.10.2008 in favour of the prospective purchasers. As per the settlement record there is no such sub-divisions showing the individual extents and boundaries for the notional sub-divisions in Revenue Record.”

As such, action initiated for correction of entries in revenue records in Survey No.124 and 262 of Gopanpally Village. On the proposals submitted by the Collector vide Letter No.E1/6719/2007, dated 19.05.2008, the Chief Commissioner of Land Administration, Hyderabad issued directions to the Collector to re-enquire the matter. The Collector, Ranga Reddy District has submitted the detailed report vide reference No.E1/6719/2007, dated 17.09.2008. Then, the Chief Commissioner of Land Administration

observed that there is a need for consideration for conferring deemed pattadar rights over Survey No.124 and 262 of Gopanpally village in view of the fact that the persons were holding the said lands under the Rules of 1356 Fasli/1947 A.D. read with Circular No.2, Revenue Department, dated 18.10.1949, and issued instructions to the Collector to take necessary action to implement the recommendation of the committee and the Collector in turn instructed the Tahsildar, Serilingampally to take necessary action. Accordingly, the Tahsildar, Serilingampally has issued instructions vide Memo No.B/460/2008, dated 15.10.2008 to implement the mutations taken place in Survey No.124 of Gopanpally Village in the revenue records.

As per Khasra Pahani (1954-55) and the latest Pahani, the Survey No.124/OO to an extent of Ac.7.00 is recorded in the name of Mohammed Osman. The petitioner's claim is on plot No.21 (278 Sq. yards) in Survey No.124/OO. In the Survey No.124, NOC was issued for part extent treating the land as private land. Further, as per the records, the land acquisition did not take place in respect of the land in Survey No.124/OO of Gopanpally village, as such the question of publishing notification under Section 4(1) of the Act does not arise and payment of 80% compensation also does not arise. Further, as per the revenue records, an extent of Ac.46.18 gts. in Survey No.124 of Gopanpally village, is recorded as government land and in pursuance of the

instructions issued by the District Collector, Ranga Reddy District, the said land was handed over to APIIC Limited under the cover of panchanama dated 28.10.2004.

4. The second respondent filed counter stating that the land to an extent of Ac.46.18 gts. in Survey No.124/P has been handed over to the APIIC Limited by the revenue authorities under the cover of panchanama on 28.10.2004, as per the orders of the District Collector, Ranga Reddy District vide Letter No.6597/2003, dated 26.10.2004, for the purpose of construction of IT Park as the said land is a government land and not a private land. In turn, the APIIC handed over the said land along with other lands in Survey No.132/P of Vattinagulapally Village, Serilingampally Mandal, Ranga Reddy District admeasuring Ac.100.00 gts. in all to M/s.WIPRO Limited Company as per the Memorandum of Understanding dated 20.10.2005, thereby the WIPRO is under occupation of the entire aforesaid land and functioning. Further, in view of the serious dispute with regard to the title and possession, the present writ petition is not maintainable in law.

5. Heard the learned counsel for the petitioner, learned Assistant Government Pleader and Sri L.Prabhakar Reddy, learned counsel appearing for the second respondent.

6. The learned counsel for the petitioner submitted that the petitioner purchased a house site plot bearing No.21 in

Survey No.124/O admeasuring 278.0 Sq. yards or 232.0 Sq. meters situated at Gopanpally Village and Gram panchayat, Serilingampally Revenue Mandal, R.R. District, through a registered sale deed dated 13.04.1994. Since then, the petitioner has been in possession and enjoyment of the said house plot. Thereafter, the respondents highhandedly without issuing any land acquisition proceedings and without paying any compensation, occupied the petitioner's land. The learned counsel also submitted that the petitioner submitted representations dated 20.04.2006, 06.07.2006 and 21.09.2006, but the same were not considered. It is further submitted that in view of the dispute, the respondents ought to have referred the dispute under Section 30 of the Act to the competent civil court.

7. The learned Assistant Government Pleader submitted that the land is a government land and the petitioner failed to show that the vacant house site was purchased under a registered sale deed, and it is not supported by any layout granted by the competent authority. The predecessor of the land through a registered sale deed without possession of the land could not give rise to the petitioner to claim compensation under the provisions of the Act. It is further contended that the land in Survey No.124 is a government land and the land is not sub-divided as per Khasra Pahani entry in Survey No.124/A1 to an extent of Ac.46.18 gts., which is recorded as Sarkari i.e., Government land. The

balance area Ac.233.20 gts. has been sub-divided into 43 parts. Accordingly, the names were recorded in the pattadar column. The petitioner failed to produce any documentary evidence to show that the vendors of the petitioner were the land owners and their names were recorded in the revenue records. Hence, the petitioner is not entitled for payment of any compensation under the provisions of the Act and the writ petition is not maintainable. It is further contended that payment of compensation under the Act vests with the State by virtue of the power of eminent domain and this Court cannot direct the respondents to pay compensation under the Act.

8. The learned counsel appearing for the second respondent contended that the land to an extent of Ac.46.18 gts. in Survey No.124/P has been allotted to the APIIC under the cover of panchanama on 28.10.2004 by the revenue authorities as per the orders of the District Collector, R.R. District vide letter No.6597/2003, dated 26.10.2004, for the purpose of construction of I.T. Park. In view of the fact that the said land is a government land and not a private land and it has been handed over to the APIIC Limited, the APIIC in turn was handed over the land to an extent of Ac.100.00 gts. to the WIPRO Limited Company as per the Memorandum of Understanding dated 20.10.2005. Hence, the claim of the petitioner is false and he is not entitled for any compensation.

9. In view of the facts and circumstances stated above, it is found that the land to an extent of Ac.279.38 gts. in Survey No.124 is recorded as 'Poramboke Sarkari' as per the Pahani for the year 1953-54 of Gopanpally Village and that prior to Khasra Pahani for the year 1954-55, the nature of the above land is shown as 'Poramboke Sarkari'. Thereafter, part of the land in Survey No.124/A1 to an extent of Ac.46.18 gts. was handed over to the APIIC for the development of I.T. Park as the said land is the government land and not private land.

10. The contention of the petitioner that he purchased vacant house site plot bearing No.21 in Survey No.124/O admeasuring 278.0 Sq. yards or 232.0 Sq. meters situated at Gopanpally Village and Gram panchayat, Serilingampally Revenue Mandal, R.R. District, through registered sale deed dated 13.04.1994 from his vendors. But, the petitioner could not show any piece of evidence to show that his vendors or predecessors-in-title have any right or title to the land situated in Survey No.124 of Gopanpally Village or part thereof. Further, there is no sub-division record produced to the effect that land in Survey No.124 was sub-divided and Survey No.124/O was carved out and even no layout plan was filed in support of the claim that the petitioner has purchased Plot No.21.

11. The contention of the petitioner that the first respondent ought to have referred the matter to the civil court

under Section 30 of the Act, is not tenable as the said Section refers that after passing of the award if any dispute arises which could not be decided by the Land Acquisition Officer, the Collector may refer such dispute to the decision of the Court.

12. In view of the above, the writ petition is dismissed, giving liberty to the petitioner to approach the civil court, if so advised, to seek compensation. No costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE M.GANGA RAO

31st January, 2018
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THE HON'BLE SRI JUSTICE M.GANGA RAO



WRIT PETITION No. 27262 OF 2006

31st January, 2018

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