

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.24845 of 2010

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner to issue a writ of mandamus declaring the Memo No.B/1165/2010, dated 11.02.2010, issued by the Tahsildar, Balanagar Mandal, Ranga Reddy District, 2nd respondent herein, as illegal, arbitrary, unjust and violative of principles of natural justice & provisions of the Constitution of India and consequently direct the respondents not to interfere, in any manner, with the petitioner's peaceful possession of and enjoyment over the property, admeasuring Ac. 0.30 guntas, in Survey Nos.337 to 346, situated at Kukatpally Village, Balanagar Mandal, Ranga Reddy District, without following the due procedure contemplated under law.

2. I have heard the submissions of Sri *Mohd. Moin Ahmed Quadri*, learned counsel appearing for the petitioner, of the learned Government Pleader for Revenue (Telangana) appearing for the respondents 1 & 2, of Sri *Sampath Prabhakar Reddy*, learned Standing Counsel for Greater Hyderabad Municipal Corporation, appearing for the 3rd respondent, of the learned Government Pleader for Survey and Land Records appearing for the 4th respondent; and of Sri *K.Raghuveer Reddy*, learned counsel appearing for the 5th respondent. I have perused the material record.

3. The case of the writ petitioner is this: - 'She is the owner and possessor of the afore-stated Ac. 0.30 guntas of land. In the year 2007, she filed W.P.No.14052 of 2007 seeking a declaration with

regard to inaction of the respondents therein in trying to demolish the boundary wall constructed around her subject land as illegal and arbitrary; in the said writ petition, she had also sought a consequential direction to the respondents to conduct survey and demarcate her land. During the course of hearing in the above said writ petition, learned Assistant Government Pleader for Revenue, on instructions, submitted that the land in Survey Nos.337 to 346 is a Government land and that survey is taken up to get evicted the persons, who are in occupation of the Government land, and that the petitioner herein approached the Court and filed the above said writ petition even before the survey was completed and merely on apprehensions. This Court dismissed the said writ petition on the ground that the said writ petition is filed only on apprehensions. The petitioner once again made applications, dated 29.03.2010 and 22.06.2010, requesting for demarcation of her land, but till now the Revenue authorities have not conducted survey. However, without conducting survey, the impugned memo was issued, *inter alia*, stating that the 5th respondent submitted a representation stating that the adjacent owners of land in Survey No.337 of Kukatpally are encroaching upon the land in Survey No.336 of Kukatpally Village and that on that the Mandal Surveyor enquired into the matter, but survey could not be conducted, as the land in Survey No.336 is covered by structures; but, however, the Assistant Director, Survey & Land Records, Ranga Reddy District, 4th respondent herein, is being addressed for demarcation of the land to resolve the issue and that in that view of the matter, the petitioner is directed not to take up any constructions in the disputed land till the issue is settled. Therefore, the present writ petition is filed.'

4. On 25.03.2011, this Court admitted the writ petition; and, on 05.10.2010, this Court granted the following interim order:

“Pending further orders, the petitioner shall not be dispossessed from the land in question.”

5. Thereafter, the 5th respondent filed the Vacate Petition, W.V.M.P.No.3617 of 2015, denying the averments in the writ petition and *inter alia* stating that the Government issued G.O.Ms.No.181, dated 09.02.1984, allotting land to an extent of Ac.79.29 guntas in Survey No.336 of Kukatpally Village, Ranga Reddy District, on collection of market value, for construction of houses, to Allwyn Factory workers; that thereafter, survey was conducted; that land of an extent of Ac.75.16 guntas was handed over to the 5th respondent; that as there was a shortfall of Ac.4.13 guntas of land, the survey was conducted and a report was furnished for handing over possession of the said extent of land; that the said survey was conducted on the instructions of the District Collector, Ranga Reddy District, on 18.11.2014, and a Panchanama was also drafted and allotment proceedings have been put up before the District Collector; that at that stage, the petitioner, who claims to be the owner of the land in Survey Nos.337 to 346, filed the above writ petition and that under the guise of the orders passed in respect of lands in Survey Nos.337 to 346, the petitioner made encroachment over the land in Survey No.336 and made constructions in part of the land; that the memo, which is impugned in the writ petition, directs the parties not to take up constructions in the disputed land till survey is conducted; that instead of approaching the authorities for getting the survey

conducted by extending co-operation, the petitioner approached this Court and filed the writ petition. Hence, unless the interim order is vacated and writ petition is disposed of, the survey cannot be conducted.

6. Both the learned counsel for the writ petitioner and the 5th respondent made submissions in line with the pleadings, which are excerpted supra.

7. Learned Government Pleader, on written instructions, submits that demarcation and fixing of the boundaries of the land in Survey Nos.337 to 346 of Kukatpally Village with the help of ETS machine is possible, provided the petitioner submits DD in favour of the Assistant Director, Survey & Land Records, Medchal District, towards ETS survey charges and that the fixing of boundaries of land in Survey Nos.337 to 346 is possible in compliance of the orders of this Court, but identification of the land to an extent of Ac.0.30 guntas is not possible, as the land records are not available. Be that as it may.

8. Learned counsel for the petitioner submits that the petitioner is prepared to pay the necessary charges for conducting survey. The learned Government Pleader and the learned counsel for the petitioner and the learned counsel for the 5th respondent are in agreement that if survey is conducted and boundaries of lands in Survey Nos.337 to 346, are fixed, the dispute will be resolved, as the land of Ac.0.30 guntas, being claimed by the petitioner, is in Survey No.336.

9. Having regard to the submissions, the Writ Petition is disposed of reserving liberty to the petitioner to pay the necessary charges and co-operate for conduct of survey of the lands in Survey Nos.337 to 346 of Kukatpally Village with the help of ETS machine, as stated on behalf of the Assistant Director, Survey & Land Records, Ranga Reddy District, 4th respondent herein. However, till such time the survey is completed and the boundaries of the said lands are fixed, both parties are restrained from making any constructions in the lands being claimed by them. In the event the petitioner fails to pay the necessary charges, the 5th respondent is at liberty to pay the same and have the survey conducted. The necessary exercise in this regard shall be completed within a period of eight (08) weeks from the date of payment of charges for survey either by the petitioner or the 5th respondent. It is also made clear that the officers of the Greater Hyderabad Municipal Corporation shall produce necessary records available with their office and extend necessary co-operation during the conduct of the survey. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

M.SEETHARAMA MURTI, J

Date: 4th July, 2018
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