

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.985 OF 2016

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner to quash the revisional order of the respondent No.2 in Case No.E2/410/2014 dated 28.10.2015 conforming the appellate order of the respondent No.3 in File No.R.Dis.H/2855/2011 dated 03.06.2012 and consequently to direct the respondents not to interfere with the possession and enjoyment of the petitioner over the land in Sy.NO.168/3B, an extent of Ac.0.28 cents and in Sy.No.168/3D, an extent of Ac.0.29 cents of Kalamalla Village, Yeeraguntla Mandal, YSR Kadapa District.

It is the case of the petitioner that the subject property was purchased by Koppala Gundaiah and Koppala Veera Reddy under registered sale deed vide Doc.No.526/61 dated 09.05.1961 in the name of Koppala Ankalamma @ Ankamma w/o K.Gundaiah. Since then the predecessors in title of the petitioner were in possession and enjoyment of the property and the said K.Gukndaiah died issueless and K.Veera Reddy blessed with 4 sons and that Narayana Reddy is one of the sons of K.Veera Reddy. The petitioner herein is the son of K.Narayana Reddy. After demise of said K.Veera Reddy, his properties were partitioned and the property in dispute was allotted to the share of the petitioner's father. While the petitioner is continuing in possession and enjoyment of the property, the Government issued notification dated 19.07.2010 for acquisition of land and the respondent No.5, who is not connected with the land in Sy.No.168/3B, Ac.0.28 cents and in

Sy.No.168/3D AC.0.29 cents made a rival claim without any right, title or possession. Thereafter, a representation was made by respondent No.5 to the respondent No.3, who in turn took the cognizance of the same and proceeded to decide the same as if it is an appeal and passed the order dated 03.06.2012 and the same was challenged before the respondent No.2 under Section 9 of the Act in revision and the Joint Collector, respondent No.2 also confirmed the order passed by the Revenue Divisional Officer, respondent No.3 herein, whereby the Revenue Divisional Officer directed the Tahsildar to conduct re-enquiry and issue Pattadar Pass Book and Title Deed to the eligible person as per law.

It is the contention of the petitioner that the order of the respondent No.2 and 3 bereft of any reasoning and none of the contentions urged in the revision were considered by the Joint Collector, respondent No.2 and similarly by the Revenue Divisional Officer, respondent No.3 herein.

The main grievance of the petitioner is that when the land belongs to him, he is entitled to claim compensation awarded as per the award passed under Land Acquisition Act, but on account of the orders passed by the respondent Nos.2 and 3, he could not claim compensation as the respondent No.5 set up rival claim for compensation awarded by the Land Acquisition Officer in the Land Acquisition proceedings.

It is brought to the notice of this Court that the petitioner filed WPMP No.47879 of 2012 in W.P.No.37728 of 2012, wherein the Land Acquisition Officer was directed not to disburse compensation to the respondent No.2 therein in respect of the acquired land in Sy.No.168/3B for an extent of Ac.0.28 cents in

Kalamalla Village, Yerraguntla Mandal, Kadapa District and the said writ petition is still pending before this Court. Thus, the dispute with regard to entitlement of compensation and when there is a dispute with regard to entitlement of compensation, the procedure to be followed is contemplated under Section 31 of the Land Acquisition Act by making necessary reference to the competent Court. But instead of resorting to such procedure prescribed under Section 31 of the Land Acquisition Act, the present petition is filed only to collect compensation amount payable for the land in dispute. Therefore, the petitioner is directed approach the Land Acquisition Officer with a request to make a reference under Section 31 of the Land Acquisition Act on deposit of compensation payable for the land acquired, as per the award and on making such application for reference under Section 31 of the Land Acquisition Act, the disputes with regard to title can be decided notwithstanding the orders passed by the respondent Nos.2 and 3 herein and if for any reason, there is no possibility of making reference under Section 31 of the Land Acquisition Act at this stage, it is for the petitioner to approach the competent Civil Court and seek necessary declaration of his title, so as to claim compensation payable for the land in Sy.NO.168/3B, an extent of Ac.0.28 cents and in Sy.No.168/3D, an extent of Ac.0.29 cents of Kalamalla Village, Yeeraguntla Mandal, YSR Kadapa District, but such disputed question of fact cannot be decided now in this writ petition. Even otherwise, the entries in revenue records are only *prima facie* evidence of title, but not conclusive proof as per Section 6 of the A.P.Rights in Land and Pattadar Pass Books Act. As per Section 6 of the A.P.Rights in Land and Pattadar Pass Books Act,

there is a statutory presumption that every entry in record of rights shall be presumed to be true until the contrary is proved or until it is otherwise amended in accordance with the provisions of the Act. Therefore, the said presumption is only rebuttable presumption and mere making any entry in record of rights would not confer any right or title if any person disputing the same by producing rebuttable evidence. Hence, the petitioner is at liberty to make an application for reference under Section 31 of the Land Acquisition Act before the Land Acquisition Officer or to approach the competent Civil Court to claim appropriate relief so as to enable the petitioner to claim compensation payable for the land acquired.

With the above, the writ petition is disposed of. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

20.04.2018
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JUSTICE M. SATYANARAYANA MURTHY