

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

I.A.NO.1 OF 2017 (WPMP.No.34163 OF 2017)

IN/AND

WRIT PETITION NO.28450 OF 2007

ORDER:

This writ petition is filed with the following prayer:

“ For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue any appropriate writ, order or direction, preferably a writ in the nature of Writ of Mandamus declaring the inaction of the respondents in not acting on the representation of the petitioners dated 20.11.2007 for carrying out survey as per the supplementary sethwar issued in the year 1958 in respect of land situated in Sy.No.42 of Alwal village, Malkajgiri Mandal, Ranga Reddy District, as being illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India and to survey the said land as per the supplementary sethwar issued in the year 1958 in so far as Sy.No.42 of Alwal village, Malkajgiri Mandal, Ranga Reddy District, is concerned by setting aside the order of the District Revenue Officer made in Case No.B1/4462/90 dated 29.3.1997 in respect of Sy.No.41 of Alwal village, Malkajgiri Mandal, Ranga Reddy District, as the said order was passed without looking into the supplementary sethwar issued in the year 1958 as well as without verifying the File/proceedings No.A1/577/75 dated 17.11.1978 of Revenue Divisional Officer, Chevalla Division, Ranga Reddy District (Inams Tribunal) and also set aside the order passed by the 4th respondent and pending the same, direct the respondents 7 and 8 to forthwith conduct survey in respect of Sy.No.42 of Alwal village, Malkajgiri Mandal, Ranga Reddy District, in terms of supplementary sethwar issued in the year 1958, pending disposal of the above writ petition and to pass such further or other orders as this Hon'ble Court, deems fit and proper.”

2. Originally the writ petition was filed by six petitioners. Subsequently, the first petitioner died and petitioner Nos.7 to 9 were brought on record as her legal representatives. The case of the original six petitioners is that in the year 1984, each of them purchased 600 square yards of open plots in Sy.No.42 (old Sy.No.384) of Alwal Village, Malkajgiri Mandal, Ranga Reddy District. Their plots are in the layout as sanctioned by the erstwhile Gram Panchayat, Alwal, vide Layout No.14/68 dated 26.02.1969 and that they have been in possession of the said plots.

3. The further case the petitioners is that as per the Sethwar issued in the year 1950, Sy.Nos.41, 42 and 50 of Alwal Village, which are all adjacent to each other, consisted of Ac.13-19 guntas, Ac.14-11 guntas and Ac.8-39 guntas respectively aggregating to Ac.36-29 guntas. In the year 1956, the second respondent in his proceedings in File No.119/30 of 1956 rectified the extents covered by the above three numbers in accordance with the revenue records. As per the said proceedings, supplementary sethwar was issued in 1958 showing that Sy.No.41 consisted of Ac.7-06 guntas, Sy.No.42 consisted of Ac.22-17 guntas and Sy.No.50 consisted of Ac.7-06 guntas, aggregating to Ac.36-29 guntas. The petitioners stated that the lands in Sy.Nos.42 and 50 are patta lands owned by T.Kishan Rao, father of T.Thirumal Rao, who is pattedar and their vendor, whereas the land in Sy.No.41 is an inam land belonging to Raja Shivraj Bahadur. The said Raja Shivraj Bahadur donated entire land in Sy.No.41 to Bhoodan Samithi in the year 1953-54 and the Bhoodan Samithi, in turn, allotted the entire extent of Ac.7-06 guntas to six individuals. Initially Ac.13-19 guntas in Sy.No.41 was treated as inam land and not Ac.7-06 guntas which is the actual extent. The six individuals, after coming into force of the A.P (Telangana Area) Inams Abolition Act, 1955 (for short, Inams Abolition Act), filed their affidavits before the Inams Abolition Tribunal indicating that they were put together in possession of land admeasuring Ac.7-06 guntas only and not Ac.13-19 guntas. During the course of proceedings under the Inams Abolition Act, concerned Patwari given a statement in File No.A1/577/75 stating that the extent in Sy.No.41 is only Ac.7-06 guntas and the said fact

was reflected in File No.A1/577/75 dated 17.11.1978 of the Revenue Divisional Officer, Chevella Division, Ranga Reddy District (Inams Tribunal). Thereafter, the six individuals, after obtaining Occupancy Rights Certificates to a total extent of Ac.7-06 guntas in Sy.No.41, without the permission of Bhoodan Samithi, have alienated the entire land to several individuals, affecting the extents purchased by the petitioners.

4. The further case of the petitioners is that subsequently Jajula Mallaiah and 14 others filed a revision petition on 03.04.1990 before the fourth respondent under the A.P. (Telangana Area) Record of Rights Regulations, 1358 Fasli in respect of land in Sy.No.41 for recording their names for the entire extent of Ac.13-19 guntas while actual extent as per supplementary sethwar is only Ac.7-06 guntas. The fourth respondent by his order dated 29.03.1997 allowed that revision. The grievance of the petitioners is that they were not issued any notices in the said revision by the fourth respondent and the said order was passed behind their back ignoring the supplementary sethwar of 1958 and the second respondent's proceedings of 1956.

5. The petitioners also stated that aggrieved by the order of the fourth respondent dated 29.03.1997, the pattedar of Sy.No.42 filed W.P.No.2192 of 2001. This Court, by order dated 07.11.2001, dismissed the said writ petition holding that the order of the fourth respondent dated 29.03.1997 is confined only to the land situated in Sy.No.41 and the petitioner therein cannot be said to be affected or prejudiced in any manner. Thereafter, the deceased first

petitioner submitted a representation dated 20.11.2007 to respondent Nos.7 and 8 – Survey Officials, to measure the land in Sy.No.42 of Alwal Village and find out its correct extent and take action in accordance with law, but they did not take any action. Hence, questioning the inaction of respondent Nos.7 and 8 in measuring the land in Sy.No.42 of Alwal Village and also the proceedings of the fourth respondent dated 29.03.2007, the petitioners have come up with the present writ petition. The version of the petitioners is that if the proper survey is carried out, the extent of the land in Sy.No.42 will be Ac.22-17 guntas and the extent of the land in Sy.No.41 will be only Ac.7-06 guntas as per supplementary sethwar of 1958 and therefore the order of the fourth respondent treating the extent of the land in Sy.No.41 as Ac.13-19 guntas will not be correct and therefore that order has to be set aside.

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6. The Managing Director of M/s.Sanjay Strips Pvt. Limited filed this petition to implead him as respondent No.24 in the writ petition stating that he purchased (i) house bearing No.5-784/10/1, constructed on plot Nos.10, 11 and 12 part admeasuring 714 square yards in Sy.No.41 under a registered sale deed vide document No.5920/2015, (ii) house baring No.5-784/15/1, constructed on plot Nos.14, 15 and 13 part admeasuring 508 square yards in Sy.No.41 under a registered sale deed vide document No.5921/2015 and (iii) house bearing No.5-784/10/1 and part of H.No.5-784/15/1, constructed on plot No.12

admeasuring 520 square yards in Sy.No.41 under a registered sale deed vide document No.5922/2015. He further stated that supplementary sethwar was done in the year 1950, but not 1958 and that the petitioners have not purchased the subject lands and they are only agreement holders in respect of Sy.No.42, which is a patta land. He further stated that as the claim of the writ petitioners is affecting his rights over his properties, he is proper and necessary party to be impleaded in the present writ petition.

7. The official respondents did not file any counter. The contesting respondents i.e. respondent Nos.9 to 23 filed counters and they totally opposed the case of the petitioners. They relied upon the original sethwar of 1950 and sought to dismiss the writ petition.

8. Heard.

9. A perusal of the impugned order of the fourth respondent dated 29.03.1997 would show that he observed that the extent in Sy.No.41 was correctly recorded as Ac.13-19 guntas in column No.3 of the pahani till the year 1960-61 and that all of a sudden, the extent was reduced to Ac.7-06 guntas. He did not consider the supplementary sethwar of 1958 and also the earlier proceedings of the District Collector in File No.119/30 of 1956. Further, the impugned order also does not show that notices were given to all the affected parties including the petitioners, who are concerned in Sy.Nos.41 and 42.

10. The learned Assistant Government Pleader has drawn the attention of this Court to the re-survey report furnished by respondent No.8 vide his letter in Rc.NoA4/29/2010, dated 29.05.2010, which was done in pursuance of the order of this Court dated 21.12.2009 in WPMP.No.37165 of 2007. In the re-survey report dated 26.04.2010, the Inspector of Survey, Ranga Reddy District, has categorically opined that at the time of demarcation, the representative of the petitioner was present and the land in Sy.No.42, which was claimed by the petitioner, is lying vacant. A sketch showing the boundaries of Sy.Nos.41, 42 and 50, as per the original survey is also enclosed with the report.

11. Sri Jalli Kanakaiah, learned counsel appearing for Sri M.R.Arjun Kumar, learned counsel for the implead petitioner, submitted that the implead petitioner is apprehending danger to his property as the conduct of re-survey, overlapping may take place and the property of the petitioner in Sy.No.41 may fall within Sy.No.42.

12. The apprehension of the implead petitioner cannot be accepted for the reason that in the writ petition filed by the writ petitioner, the implead petitioner cannot claim any relief, as he has appropriate remedy under law to protect his interest in respect of his lands in Sy.No.41. Hence, no relief can be granted to the implead petitioner in this writ petition and I.A.No.1 of 2017 (WPMP.No.34163 of 2017) is dismissed, as this effort is only to protract the litigation.

13. In the facts and circumstances of the case, the writ petition is disposed of directing respondent Nos.7 and 8 to consider the request of the petitioner in the light of the re-survey report dated 26.04.2010, within a period of three months from the date of receipt of a copy of this order. As a sequel, the miscellaneous petitions pending if any shall stand closed. No order as to costs.

T.AMARNATH GOUD, J

Date: 14-09-2018
TJMR

