

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 22036 of 2017

ORDER:

This writ petition is filed seeking to declare the action of respondent No.5-Assistant Executive Engineer, Rural Water Scheme/Mission Bhagiratha at Suryapet in trying to interfere with the possession and enjoyment of the petitioner over the land admeasuring 775.50 square yards in Survey Nos.196 and 196/1A of Pillalamarri Village, Suryapet Mandal and District, for construction of a water tank under Mission Bhagiratha Scheme without issuing any notice and without following the procedure, as illegal, arbitrary and violative of principles of nature justice.

At the stage of admission, on 14.07.2017, this Court passed the following order:

“Heard both sides at length with reference to the prayer of the writ petition with supporting affidavit and the other material including counter-affidavit and enclosed material and the sale deed description of the property of the petitioner by registered document bearing No.848/2000 dated 25.01.2010.

A perusal of the sale deed shows, it requires a field survey and demarcation on land of the Sy.No.196 and the part of the property claimed by the petitioner for 755.50 Sq.yards under the sale deed referred supra as to forming into any of the area of the tank under construction under Mission Bhagiratha Scheme, under this, any digging of the tanker is at the risk of the respondent-Authorities and will not affect any of the right, possession and enjoyment of the writ petitioner without identity. Thereby, in the meantime, the respondent-Authorities are directed to cause survey and submit a detailed survey report with plan and before conducting survey physically, the petitioner shall be intimated for his presence.

For submission of further material with reference to the above direction and for further hearing, post on 27.07.2017 in motion list.”

Learned Government Pleader for Panchayat Raj submits that pursuant to the above said order, a survey was conducted and the Surveyor submitted his report on 24.07.2017 to the Tahsildar, Suryapet. The said report, which is placed on record, reads as under:

“vide reference to the subject and reference cited above, with the orders of the Tahsildar, Suryapet Mandal, survey was conducted based on the measurements provided and the boundaries fixed in the Pillalamarry Village with the Survey No.196 in the presence of applicant, Village Revenue Officer (VRO), Revenue Inspector (RI), Suryapet, AEE LF Canal Moosi Project, Witness we have recognized the site with Survey No.196. Further, it is also found that the site in which the construction was started is in Survey No.197. Further, the site was surveyed and the location sketch was prepared and submitted for further action.”

The claim of the petitioner is that the water tank is being constructed in his land in Survey No.196 and the report of the Surveyor speaks otherwise.

Learned counsel for the petitioner places reliance on the counter-affidavit filed by respondent No.5, who stated that in Survey No.196, there is also Government land, which fact negates the survey report. He asserts that the petitioner also filed his objections to the survey report on 16.08.2017 stating that the tank in question is constructed in his land.

Having considered the respective submissions, in view of the fact that the petitioner claims right over the land in Survey No.196, in view of the report of the Surveyor that the tank is being constructed in the land in Survey No.197 and in view of the stand taken by respondent No.5 that the tank is being constructed in the

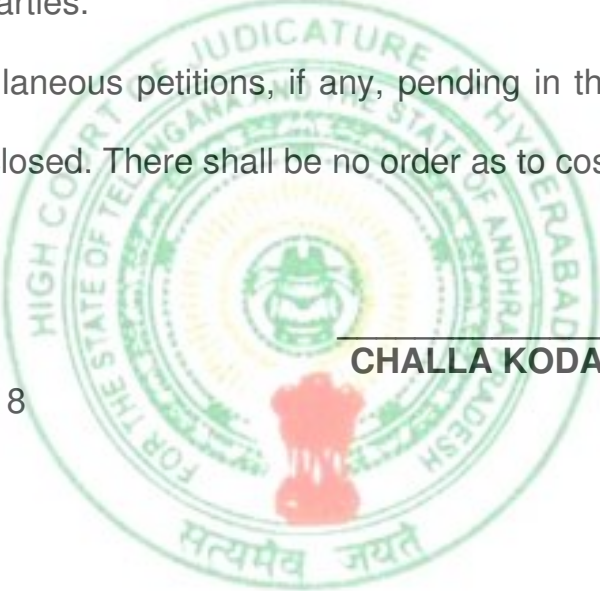
Government land in Survey No.196 and not in the land which is claimed by the petitioner, this Court is of the opinion that there is a dispute with respect to the identity of the property.

In those circumstances, the writ petition is closed, leaving it open to the petitioner to work out the remedies available to him under civil law. It is made clear that the survey, which was done at the instance of this Court, shall not come in the way of the petitioner approaching the civil Court, which adjudicates the matter based on the material that may be produced by the respective parties.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

Dt:05.02.2018

kdl



CHALLA KODANDA RAM, J

