

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.14789 OF 2014

ORDER:

The petitioner seeks writ of mandamus declaring the action of the respondents 3 and 4 in dividing the properties arbitrarily and allotting more land to respondents 5 and 6 and thereby, trying to dispossess the petitioner from his land without passing any order of partition and effecting the divisions in pursuance of notice of 4th respondent in RC.No.B/836/2013, dated 28.09.2013 as arbitrary, illegal, unjust and unconstitutional and consequently, call for records in B/836/2013, dated 11.09.2013, including partition orders and pass the orders which are deemed just and proper.

2. (a) The petitioner's case, in brief, is that the respondents 5 and 6 herein have filed O.S.No.02 of 1991 in the Court of Agent to Government at Khammam against the petitioner herein and another seeking partition of the suit schedule land and allotment of due share to them. The trial court in its judgment dated 07.08.1991 decreed the suit and directed the Mandal Revenue Officer, Kothagudem, to verify the land and divide among the plaintiffs and defendants as per Rules and incorporate the partition into the pahanees.

(b) The further case of the petitioner is that he filed AS(SR) No.20623 of 1993 with delay before High Court and

subsequently, the same was dismissed for not brining the LR's on record.

(c) The further submission of the petitioner is that Mandal Surveyor, Kothagudem, issued notice in proceedings No.B/836/2013, dated 28.09.2014, as per the instructions of the Tahsildar, Kothagudem, requesting the parties to attend for fixation of boundaries on 03.10.2014. Survey was done on that day in spite of resistance made by the petitioner and others. The contents of the survey were not served on the petitioner. Subsequently, the respondents 5 and 6 have usurped into the lands of the petitioners and they have cut the trees by trying to dispossess the petitioners. The survey and division of the properties was not done as per the Rules and it was done according to the whims of the Mandal Revenue Officer and Surveyor.

Hence, the writ petition.

3. Learned Government Pleader for Revenue takes notice for official respondents 1 to 4. No counter is filed.

4. Heard.

5. As can be seen, the grievance of the petitioner appears to be that while conducting the survey, pursuant to the judgment in O.S.No.02 of 1991, the surveyor has not partitioned the properties as per Rules and the survey particulars were not provided to the petitioner and the

respondents 5 and 6 have usurped into the lands of the petitioners basing on the irregular and illegal survey conducted by surveyor. Since the survey is said to have been conducted in execution of the decree and judgment in O.S.No.02 of 1991, the petitioner can approach the trial court i.e., the Court of Agent to Government, Khammam and submit the irregularities and illegalities, if any, in the matter of conducting survey by the concerned Mandal Revenue Officer and surveyor.

6. Therefore, this writ petition is disposed of, giving liberty to the petitioner to approach the trial court and make a representation with regard to the alleged irregularities in the matter of survey conducted by the Mandal Surveyor, Kothagudem, within three weeks from the date of this order, in which case, the trial court shall, after hearing all concerned, pass an appropriate order at the earliest. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

29.11.2018
SS

U.DURGA PRASAD RAO, J