

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.40530 OF 2016

DATED : 30.01.2018

Between :

Y. Rudra Goud S/o.Late Y.C.Veerabhadra Goud,
Aged about 68 yrs, Occu : Agriculturist,
R/o.D.No.18/423, Shakunthala Circle,
Yemmiganur Town, Kurnool District.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Revenue Department, Secretariat,
Velagapudi, Guntur District & others.

... Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.40530 OF 2016

ORDER :

Heard learned counsel for the petitioner and learned Government pleader for respondents 1 to 4 and learned counsel for respondent No.5. With the consent of all the counsel Writ petition is disposed of finally by this order.

2. Petitioner claims to be owner and pattedar of land to an extent of Ac.0-67 cents in Sy.No.238/2, Ac.1-03 cents in Sy.No.239/3 and Ac.2-64 cents in Sy.No.240/1 of Yemmiganur Village and Mandal, Kurnool District. Petitioner is aggrieved by notice dated 02.11.2016 issued by the Tahsildar, Yemmiganur, Kurnool District-4th respondent to conduct survey of land in Sy.No.241 of Yemmiganur Village.

3. This notice is challenged, primarily, that earlier a survey was conducted as per request of 5th respondent and report was already filed by the Mandal Surveyor to the Tahsildar. Thus, there cannot be fresh survey on same property. Therefore, present survey notice is not maintainable. Taking note of earlier survey report on same property, this Court having found *prima-facie* that conducting of second survey on same property is not maintainable, granted interim suspension.

4. According to learned counsel for the 5th respondent, petitioner is owner of land in Sy.No.240, which is adjacent to Sy.No.241 and is not concerned with land in Sy.No.241. The total extent of land in Sy.No.241 is Ac.0-83 cents and 5th respondent purchased Ac.0-41 cents as early as on 06.07.1970, by way of

registered sale deed. He requested for survey of entire extent of land, but survey was confined only to Ac.0-10 cents. According to learned counsel, when extent of land in Sy.No.241 is larger, the survey could not have confined only to Ac.0-10 cents.

5. He further submits that the report of the survey is not furnished to him. Alleging inaction, the 5th respondent earlier filed W.P.No.29909 of 2016 and consequent to the direction issued by this Court, on 26.11.2016 the Tahsildar addressed letter to the Deputy Inspector of Survey and Land Records, eliciting his opinion. As the Mandal Surveyor expressed inability to conduct survey, having regard to the contours of the subject property due to raising of structures, the Tahsildar must take further action in pursuant to his letter dated 26.11.2016.

6. It is not in dispute that the 5th respondent earlier requested to conduct survey and based on his request, survey was conducted, and surveyor filed his report to Tahsildar.

7. Learned counsel for the 5th respondent sought to contend that this report was not served on him. However, copy of report is filed along with writ petition. Thus, it is no more open to the 5th respondent to contend that he was not aware of the report. Whether report of the Mandal Surveyor is validly made; he has not conducted proper survey cannot be gone into in the absence of challenge. If he is aggrieved by report of the Mandal Surveyor he has avail appropriate remedy as available in law,. There cannot be multiple surveys on the same property, more particularly at the instance of same person, on whose behalf the survey was conducted in the year 2015.

8. A reading of the order of this Court in W.P.No.29909 of 2016 would show that the Court was not apprised of the survey already conducted. Therefore, general direction was issued. Thus, by relying on said direction, 5th respondent cannot justify second survey. I see merit in the contention of learned counsel for petitioner that there cannot be successive surveys on the same property when the earlier survey report stands.

9. Having regard to the same, the notice impugned herein is set aside and the Writ Petition is allowed. However, it is open to the 5th respondent to avail appropriate remedy, as available in law, if so advised, against report of the surveyor dated 02.08.2015, a copy of which is enclosed to the writ petition as well as counter affidavit of official respondent. There shall be no order as to costs.

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

30th January, 2018
Rds

P.NAVEEN RAO,J