

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.25155 of 2007

Order:

This Writ Petition is filed to declare the Memo, dated 16.11.2007, issued by the Tahsildar, Golconda Mandal, Hyderabad District, rejecting the request of the petitioner for regularization of 200 sq. yards of land situated in Survey No.178, in Premises No.9-5-1/1, Ibrahimbagh village, Golconda Mandal, Hyderabad, as illegal and arbitrary.

The brief facts of the case, according to the petitioner, are that he purchased the House No.9-5-1/1, admeasuring 220 sq. yards, situated in Survey No.178 of Ibrahimbagh village, Golconda Mandal, Hyderabad, from one K.C. Balan under an agreement of sale dated 23.05.1992 and since then he has been in possession of the same; subsequently, he came to know that his vendor does not have any title to the said property, hence he made an application on 03.02.1996 seeking regularization of the said property in terms of G.O.Ms.No.508, dated 20.10.1995; while things stood thus, the Tahsildar, vide impugned memo dated 16.11.2007, intimated the petitioner and his Vendor that the request of the petitioner for regularization of the said property was rejected and directed the petitioner to vacate the premises; the case of the petitioner is that as per the policy of the Government contained in various GOs, the encroachment of Government land would be regularized on payment of the market rate, but the application of the petitioner was rejected without considering the GOs meant for regularization.

A counter affidavit has been filed by the Tahsildar stating, *inter alia*, that the Government has proposed the subject land for alienation along with other lands in Survey No.178 of Ibrahimbagh in favour of SAAP; pursuant to the said proposals, illegal structures were removed

during the year 2002; at the time of removal of encroachments, it was noticed that one K.C. Balan had encroached upon the subject land; the said K.C. Balan filed a suit O.S.No.2242 of 2002 seeking perpetual injunction; the said suit was decreed on 15.07.2004 and the defendants therein were restrained by way of perpetual injunction from dispossessing the plaintiff without following due process of law; accordingly, notice under Section 7 of the A.P. Land Encroachment Act, 1905 (for short 'the Act') was issued to K.C. Balan on 01.05.2005 and subsequently eviction orders were passed under Section 6 of the Act on 02.09.2005. Thereafter, the said K.C. Balan filed a representation dated 08.09.2005 stating that he filed an application for regularization of the encroached area of the Government land in accordance with G.O.Ms.No.508, dated 20.10.1995; the Committee constituted for regularization of the Government lands has rejected the proposal of K.C. Balan on 11.10.2007; a memo dated 21.10.2007 was also served on the petitioner's wife intimating the rejection of the application of K.C. Balan; as the said K.C. Balan and the petitioner failed to vacate the premises even after service of notices, the structure was demolished under a cover of panchanama; the entire land to an extent of Ac.20-10 gts., in Survey Nos.173 and 178 was alienated to APIIC and physical possession was also handed over on 28.02.2008.

None appears for the petitioner. Heard learned Assistant Government Pleader for Revenue.

Learned Assistant Government Pleader submits that the petitioner cannot seek regularization as of right and it is within the discretion of the Government depending upon the facts and circumstances of each case and in the instant case since the subject land is required for public

purpose along with other lands the request of the petitioner seeking regularization was rejected.

As seen from the counter affidavit, admittedly, the petitioner and his Vendor K.C. Balan are the encroachers of the Government land and after issuing notice under Section 7 of the Act and after receiving the explanation from them eviction orders were passed under Section 6 of the Act. More over, the committee constituted for regularization of Government lands in accordance with G.O.Ms.No.508, dated 20.10.1995, has rejected the application of the petitioner's Vendor K.C. Balan for regularization on 11.10.2007, as there was a proposal to alienate the said land to APIIC for public purpose and, accordingly, the petitioner and his Vendor K.C. Balan were directed to vacate the premises. Even after service of notices, when they failed to vacate the premises, the structures were demolished under a cover of panchanama and the subject land along with other lands was alienated to APIIC and physical possession was also handed over to them on 28.02.2008, as such the question of regularization of the Government land encroached by the petitioner does not arise.

Having regard to the facts and circumstances of the case, the Writ Petition fails and the same is, accordingly, dismissed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

KONGARA VIJAYA LAKSHMI, J.

Date: 31.07.2018
Nsr

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI



Date: 31.07.2018

Nsr