

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.15274 OF 2018

DATED : 27.04.2018

Between :

M/s.Peers Constructions,
A partnership Firm, rep., by its Managing Partners,
Aslam Bin Mohammed, S/o.Mohammed Salam,
R/o.H.No.9-4-86/46 (P), 47, 48, Serene Abode Building,
Salarjung Colony, Hyderabad & another.

.. Petitioners

And

The State of Telangana,
Rep., by its Principal Secretary,
Revenue Department,
Secretariat, Hyderabad & others.

... Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioners and learned Government Pleader for Revenue appearing for the respondents.

2. This writ petition is instituted challenging the notice dated 18.04.2018, where under the Deputy Director Survey and Land Records, Hyderabad, fixed 28.04.2018 as the date to conduct survey in Sy.No.175 of Shaikpet Village and Mandal, based on the request made by Sri C.Jangaiah & Others. This request of Sri C.Jangaiah and others was the subject matter of challenge in W.P.No.43914 of 2016. The learned Single Judge, directed consideration of application dated 08.03.2016 filed by petitioners therein after receiving charges, keeping in view certain Circulars, judgment of this Court in W.A.No.618 of 2013 and the provisions of Sections 89, 89-A and 92 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli. Aggrieved thereby, W.A.No.674 of 2017 was filed. The Division Bench noticed that the appellants do not have land in Sy.No.175, and as the direction of learned Single Judge was only with reference to land in Sy.No.175, and held the apprehension expressed by the appellants was wholly unjustified. However, the Division Bench directed the Deputy Director to cause survey by confining only to the lands in Sy.No.175 and not beyond.

3. The very issue was again challenged before this Court in W.P.No.40639 of 2017 on the notice issued on 27.11.2017 seeking to conduct demarcation and survey as per the earlier orders of the learned single Judge and the Division Bench. It

was then contended that petitioner therein own property in neighbouring lands in Sy.Nos.174, 177 and 178 and sought for demarcation of the subject lands, but was rejected by the competent authority and this fact was not brought to the notice of the Division Bench in W.A.No.674 of 2017. The said contention of petitioner was rejected holding that the decision of Division Bench is binding on the petitioner's predecessor in title and cannot be collaterally attacked by the petitioner. The said writ petition was disposed of directing the 3rd respondent therein to issue notice to petitioner before survey and demarcation is done by him, pursuant to the notice dated 27.11.2017 and was granted liberty to produce all documents in support of his claim. Learned counsel for the petitioners would submit that the 2nd petitioner herein is the petitioner in W.P.No.40639 of 2017 and he is one of the partners of first petitioner firm.

4. The present notice is challenged on the ground that in the notice there is a reference to T.S.No.15/3, treating it equivalent to Sy.No.175 (old), whereas T.S.No.15/3 has only a small extent of Ac.0.04 guntas (10 cents), whereas the request to conduct survey is to an extent of Ac.0.23 guntas. Therefore, the notice issued is contrary to the directions issued by the Division Bench and the learned Single Judge. The said contention cannot be countenanced when the earlier notice issued is not placed on record and whether this plea was raised and considered by the Division Bench as well as learned Single Judge in the second round of litigation.

5. From a reading of the order in W.P.No.40639 of 2017, it appears that the plea raised against earlier notice to conduct

survey was on the ground that he is the owner of neighbouring survey number and he has an objection. The Court directed issuance of notice to petitioners also. Therefore, the present notice is issued. Therefore, it is no more open for the petitioners to raise the same contention again in another round of litigation.

6. It cannot be said that the Deputy Director is not competent to conduct survey, more so, when the Division Bench directed the Deputy Director to conduct survey, of land in Sy.No.175 of Shaikpet village. Further from a reading of the order of the Division Bench as well as learned Single Judge, it appears the sub-division in Sy.No.175 and respective extents in such sub-divisions are not mentioned. Therefore, in the absence of total extent of land in Sy.No.175, when sub-divisions are made, extents of sub-division, nature of request made by persons seeking survey and at whose instance the survey process is initiated is, the contention of petitioner cannot be appreciated. Be that as it may, if what is contended by the petitioners is true, nothing prevented them from raising this objection before the Deputy Director.

7. Therefore, the Court is not inclined to entertain the writ petition. Thus, leaving it open to the petitioners to raise all objections, as available in law, the Writ Petition is dismissed. There shall be no order as to costs.

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

P.NAVEEN RAO,J

27th April, 2018
Rds