

THE HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No.10795 OF 2007

ORDER:

Heard the learned counsel for the petitioner And the learned standing counsel appearing for the respondent Nos.2 and 3.

2. The prayer sought for in the writ petition is as under:

“to issue a writ of Certiorari or any other appropriate writ or direction calling for the records relating to the order of the 1st respondent passed in C M A No 228/2005 dated 11.5.2007 confirming the order of the 2nd respondent passed in Case No 1/CA North/2002 dated 27.8.2005 and quash the same.”

3. The facts of the case are that the respondent No.3 filed an application before the competent authority under the Andhra Pradesh Housing Board Act stating that the land admeasuring an extent of 347.25 sq.yds., situated at Sanjeeva Reddy Nagar was acquired by the Housing Board under the provisions of the Land Acquisition Act and payment of compensation was also made to the owner. The said property was auctioned on 15.02.1981 and the highest bidder paid the full auction amount on 09.02.1981 and before the registration of the said land, the Deputy Engineer (Lands) Branch of A.P. Housing Board has informed that the 4th respondent herein has encroached the land to an extent of 3.33 sq.yds. and duly constructed pillar on the said land and on the remaining land, the petitioner unauthorisedly dumped the stones and using the land for his stone business from 05.08.1981 respectively. On 18.08.1991, the Circle Inspector of Police was requested to take necessary action against the petitioner. In the year 1981 a case was filed before the competent authority and the same was numbered as

866/CA1/81. Since the said petition was missing, a fresh petition was filed as per the instructions of Vice Chairman and Housing Commissioner vide 1646/B7/M/98, dated 19.03.2002. On the basis of the above averments, the respondent No.3 sought for an order of eviction from the subject-land and to award suitable damages with costs. The said petition has been entertained by the respondent No.2 and notice was issued. On receipt of notice, the petitioner herein filed a detailed counter denying the allegations made in the petition. It is pleaded in the counter that the land admeasuring an extent of 301 sq.yds. in Sy.No.106 of B.K.Guda was purchased by him from Sri Raichandra Mohanlal through an agreement of sale dated 29.09.1980 at Rs.15/- per sq.yd. and the entire sale consideration has been paid. It was further pleaded that the land in question was originally a well with water and after purchase, he closed the well, levelled the land and raised a compound wall. In the year 1981, the petitioner was served with a notice by the Revenue Inspector of B.K.Guda to pay NALA tax and accordingly, an amount of Rs.80.40 was paid on 11.08.1981. It is also mentioned that the petitioner filed a suit in O.S.No.432 of 1981 on the file of II Assistant Judge, City Civil Court, Hyderabad for permanent injunction restraining the respondent No.3 from selling the plaint schedule property. The learned II Assistant Judge dismissed the suit, but however, observed that the defendant therein shall not proceed to register the sale deed in favour of auction purchaser unless and until a detailed enquiry is conducted with regard to the extent of land purchased by the petitioner from

Sri Raichandra Mohan Lal in different survey numbers with clear demarcation.

4. In support of his case, respondent No.3 examined the Junior Housing Engineer of Housing Board, who has acquired the land for the Housing Board in the year 1962. On behalf of the petitioner, he himself examined as R.W.1 and also son of his vendor was examined as R.W.2 to show that the property in question was acquired and the same has been sold in his favour. After considering the rival contentions, respondent No.2 allowed the application filed by respondent No.3 and ordered for eviction of the petitioner. Aggrieved thereby, the petitioner filed an appeal under Section 55 of the Andhra Pradesh Housing Board Act before the respondent No.1. Before the respondent No.1, the petitioner has reiterated all the contentions raised by him before the respondent No.2 in the counter. The respondent No.1, after considering rival contentions, dismissed the appeal vide C.M.A.No.228 of 2005 on 11.05.2007 holding that the petitioner has no title over the property in question and he is not entitled to squat over the property. Aggrieved by the said orders, the present writ petition has been filed.

5. Respondent No.3 filed a counter affidavit denying the material allegations made in the affidavit filed in support of the writ petition and contended *inter alia* that the Housing Board examined its junior Assistant Engineer, who was in charge of the land belonging to the Housing Board in twin cities as P.W.1 and marked Exs.A.1 to A.15. The competent authority conducted detailed enquiry and passed a reasonable order. Therefore, the direction given by the

civil Court is duly complied with. It is also stated that the petitioner herein is only an agreement holder and as such there is no question of his acquiring adverse possession. It is relevant here to mention that in the counter affidavit, it is stated that the petitioner herein made a representation dated 16.07.2006 to the Vice Chairman & Housing Commissioner seeking regularisation of land and requested to fix up the rate by collecting market value and that he is ready to deposit the amount and the said aspect is *sub-judice* before the authority.

6. The learned counsel appearing for the petitioner, after arguing the matter on merits, brought to the notice of this Court the statement made by respondent No.3 that the representation of the petitioner is under consideration and requested this Court to direct the respondent Nos.2 and 3 to pass appropriate orders.

7. The learned standing counsel appearing for the respondent Nos.2 and 3 while arguing, brought to the notice of this Court that the representation dated 16.07.2006 submitted by the petitioner, is not available and therefore, the petitioner may be directed to submit a fresh representation so that it can be considered and appropriate orders can be passed.

8. Having heard both the counsel, this Court, without going into the merits of the case, is inclined to direct the respondent Nos.2 and 3 to consider the case of the petitioner on his submitting a detailed representation.

9. Accordingly, the writ petition is disposed of directing the petitioner herein to submit a representation afresh to the Vice Chairman & Housing Commissioner, Telangana Housing Board, Hyderabad within a period of four weeks from today. On such representation, the said authority is directed to consider all the objections/contentions raised by the petitioner and pass appropriate orders in accordance with law within eight weeks thereafter by giving opportunity of being heard. It is needless to observe that the petitioner is at liberty to take all the grounds available to him, on which, the concerned authority is directed to consider and give a reasoned order. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

P.KESHA VA RAO,J

14th NOVEMBER 2018.

Tsr

