

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.30761 of 2013

ORDER:

The petitioners seek *Writ of Mandamus* to declare the issuance of Memo No.R1/6502/2010 dated 4.10.2013 by respondent No.4, without following due process of law pertaining to the petitioners' property bearing Mpl.No.16-2-806/1 admeasuring 520 square yards situated at Sankeshwar Bazar, Saidabad, Hyderabad, as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents not to interfere with the aforesaid property.

2. The petitioners' case, briefly, is that the property described supra originally belongs to Mir Osman Ali Khan H.E.H. the Nizam and he sold the property through the G.P.A., to one Prem Kumari Bai alias Prem Devi, wife of Chaganlal *vide* registered Doc.No.2377/1964, dated 17.10.1964. One Sri Krishna Reddy sold 200 square yards land to M.Satyanarayana Reddy under registered sale deed *vide* Doc. No.1700/1966 dated 8.7.1966, as such M.Satyanarayana Reddy has become the absolute owner of land to an extent of 520 square yards. The said M.Satyanarayana Reddy sold the land to one Sri Anwar *vide* Doc.No.623/1970 dated 5.3.1970. Again the said Anwar sold the land to M.Satyanarayana Reddy *vide* Doc.No.664/1975 dated 10.3.1975. While so, M.Satyanarayana Reddy executed G.P.A. in favour of N.Rama

When the petitioners approached the respondents in the year 2006 seeking No Objection Certificate for obtaining municipal permission with an intention to construct a new house therein, the respondents rejected to issue No Objection Certificate and stated that T.S.L.R. 20/1, Block-F, Ward No.171, belongs to Government and also they threatened to dispossess the petitioners from the residential house. Out of fear, the petitioners herein have simply applied for regularization under G.O.Ms.No.1601 Revenue (Assignments I) Department, dated 29.8.2005. The surveyor from the Office of Tahsildar, Saidabad conducted a survey and reported that the house is a dwelling house and petitioners and their predecessors in title are residing therein since 1967.

3. The respondent No.3 filed counter opposing the writ petitioners *inter alia* contending that the petitioners' schedule land to an extent of 304 square yards has been identified and it falls in T.S.No.20/1P, Block-F, Ward No.171 correlated to old Sy.No.49 of Saidabad. As per Khasra Pahani for the year 1954-55 in Sy.No.49 recorded as in Column Nos. 8 and 19 as "Sarkari" and in T.S.L. records, T.S.No.20/1p recorded in Column No.10 as "Shankaswar Bazar Abadi Sarkari" and the total extent shown in Col.No.17 as 4024.50 square meters and in Column No. 20 recorded as "G.V.M." land. Hence, the State Government is the absolute owner and possessor of the above said land. As such, neither the petitioners nor their alleged predecessors had any right

was referred to respondent No.3 for enquiry and report. From the spot verification, it was revealed that the land in question falls in T.S.No.20/1, Block-F, Ward-171 of Saidabad, which is classified as Government land as per records. As per T.S.L.R. record, the T.S.No.20/1 correlated to Sy.No.49 of Saidabad village recorded in Column No.10 as Shankeswar Bazar Abadi Sarkari and the total extent shown in Column No.17 as 4024.50 square meters and Column No.20 recorded as "G.V.M." land. Since the land is a Government land, the petitioners cannot seek for regularization and their predecessors too cannot claim any right over it.

4. Heard the learned counsel for the petitioners and learned Assistant Government Pleader.

5. As can be seen, as per the impugned Memo No.R1/6502/2010 dated 4.10.2013, the respondent No.4 issued memo to the petitioners stating that in the District Level Committee meeting held on 08.09.2010, the D.L.C. recommended for rejection of regularization of the subject premises, as the land is classified as G.V.M. land and the claim of the petitioners does not fall under the purview of G.O.Ms.No.166 Revenue (Assn. POT) Department, dated 16.2.2008 and proposal was submitted to the CCLA, Andhra Pradesh, Hyderabad for taking decision. Hence, the State Level Committee meeting held on 18.7.2013 rejected the request of the petitioners for regularization of the premises. During the course of hearing, learned Assistant Government Pleader would submit that in PII No 517 of 2013, the learned

16.2.2008 and based on the said statement, the Division Bench of the High Court had passed the order in PIL No.517 of 2013 on 10.09.2015. Learned Assistant Government Pleader produced a copy of the order, which reads thus:

“ The statements, made by learned Advocates General for both the States that the Statement Governments shall not implement or act upon G.O.Ms.No.166 dated 16.2.2008, are accepted. It is open to the petitioners to make representation for removal of encroachments that were regularized or ordered to be regularized on the basis of G.O.Ms.No.166 dated 16.2.2008, within eight weeks from today. If any such representation is made, we hope and trust that the concerned authority shall deal with the same in accordance with law observing the principles of natural justice”.

Thus, as can be seen from the order passed in PIL No.517 of 2013, dated 10.9.2015, that Division Bench of this Court accepted the statements made by the Advocates General of both the States that they will not implement or act upon G.O.Ms.No.166 dated 16.2.2008. Therefore, in the instant case, the question of regularization of the subject property by applying G.O.Ms.No.166 dated 16.2.2008 does not arise.

6. In that view of the matter, the writ petition is closed giving liberty to the petitioners to seek their remedy available to them as per law. No order as to costs.

Miscellaneous petitions pending if any shall stand closed

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Date: 24/12/2018

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