

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 24118 OF 2017

ORDER :

The Writ Petition is filed to declare the action of the 3rd respondent Yellareddy Gram Panchayat and its subordinates in interfering with the possession and enjoyment of the petitioners in respect of the land admeasuring Ac.0.36 guntas in Survey Nos. 34/1, 34/2 and 35 situated at Yellareddy Village and Mandal, Kamareddy District, by conducting weekly market without initiating any proceedings and following due process of law, as illegal and arbitrary.

The petitioners claim to be the owners and possessors of the above said land, by way of inheritance. It is their case that since the land is lying vacant, the authorities of the 3rd respondent have been utilizing the same unauothorizedly for conducting weekly market. Despite their requests, the 3rd respondent has not stopped undertaking the said activities in their land. When the petitioners applied for survey of the land and to fix boundaries, a survey was conducted on 31.05.2016. If the 3rd respondent requires the subject land, they can acquire the same by following due process of law, is the grievance of the petitioners in this Writ Petition.

A counter-affidavit, sworn to by the Panchayat Secretary, has been filed on behalf of the 3rd respondent, wherein, while denying the averment that the respondent authorities have been interfering with the possession of the petitioners over the subject land, stated that the land in Survey No. 36 of Yellareddy is 'Gudikunta Shikam' and a market is being conducted therein from times immemorial. It is further stated that several religious

activities are also being conducted in the said land. It is not necessary for this Court to set out, in detail, the various aspects which have been mentioned in the counter-affidavit, for they are not really relevant for the purpose of disposal of the Writ Petition. It is stated that during his lifetime, the father of the petitioners and thereafter, the petitioners, had sold away the subject land to 3rd parties. The petitioners, in order to grab the land in Survey No. 36, where the weekly market is being conducted, have filed the Writ Petition, is what has been averred in the counter-affidavit.

A rejoinder affidavit has also been filed by the petitioners denying the averment that they have sold the subject land and have been trying to grab the land in Survey No. 36. According to them, the survey conducted on 31.05.2016 would clearly indicate that they possess lands in Survey Nos. 34/1, 34/2 and 35. It is further stated that even as per the counter-affidavit, sale translations were made only for an extent of 2850.84 square yards, while the total extent of the land owned by the petitioners is 4,356.35 square yards. Hence, they requested that if only a comprehensive survey is conducted, the truth or otherwise would come out.

Heard learned counsel for the parties, who reiterated their respective pleadings.

The fact that the petitioners' father was the owner of certain extent of land in Survey Nos. 34 and 35 and that he sold away a part of it, is not in dispute. While the respondents claim that the petitioners' father had sold the entire land, the petitioners denied the same. In the counter-affidavit, apart from denying the title of the petitioners over the land in Survey Nos. 34 and 35, it has been

asserted that the market is being conducted in Survey No.36, which is a shikam land. However, Survey Nos. 34, 35 and 36 being contiguous, it is not possible for this Court, at this point of time, to conclude whether the market is being conducted in Survey Nos. 34 and 35 or in Survey No. 36.

Since it is the specific assertion of the respondent gram panchayat that the market is being conducted only in Survey No.36 which fact was controverted by the petitioners and since it is not possible for this Court to go into the factual aspects of the matter, liberty is given to the petitioners to approach the civil Court seeking injunctive relief against the respondent gram panchayat if the weekly market is being conducted in Survey Nos. 34 and 35 and they also may seek appropriate relief for demarcation of the land. In the alternative, in the process of protecting their property, the petitioners also shall be at liberty to approach the Survey Department and get the land surveyed and demarcated.

Subject to the above observations, the Writ Petition is closed.
No costs.

Consequently, the miscellaneous Applications, if any shall also stand closed.

CHALLA KODANDA RAM, J

25th April 2018

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