

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.Nos.25187 and 28026 of 2018

COMMON ORDER:

The subject land in these two Writ Petitions is an extent of Ac.0-53 cents in survey No.55/B1 of Devanakonda village and Mandal of Kurnool District.

2. One A.Veeresh (petitioner in W.P.No.25817 of 2018, who is also 6th respondent in W.P.No.28026 of 2018) and his family members filed O.S.No.92 of 1999 before the Junior Civil Judge, Pattikonda, Kurnool District against (i) District Collector, Kurnool, (ii) Revenue Divisional Officer, Adoni, (iii) Mandal Revenue Officer, Devanakonda, (iv) Executive Officer of the Gram Panchayat Devanakonda and (v) Executive Engineer, Panchayat Raj, Adoni for declaration of their title in respect of the same property, for recovery of possession thereof and for a mandatory injunction for removal of the road laid therein.

3. After contest, the said suit was dismissed on 02.11.2001.

4. Sri A.Veeresh initially filed W.P.No.7266 of 2016 complaining that the State as well as its Revenue Officials and Devanakonda Grampanchayat have not entered his name in the revenue records in respect of the said property in spite

of the representations given by him on 08.02.2016 and 16.02.2016.

5. This Court disposed of the said Writ Petition on 08.03.2016 directing consideration of the said representations by the respondents therein.

6. However, the Tahsildar, Devanakonda passed order refusing to change entries of the revenue records stating that the land, over which the petitioner was claiming right, was no longer agricultural land and there is a black top road over it.

7. Petitioner assailed the same in W.P.No.25392 of 2016.

8. This Court by order dt.09.08.2016 upheld the said view of the Tahsildar but made an observation therein that the order of the Tahsildar would not deprive the right of the petitioner to claim compensation when there is no dispute that the land, that is being claimed by the petitioner by way of ownership, is utilized by the State for laying the road.

9. Thereafter, Sri A.Veeresh approached the Grampanchayat of Devanakonda showing the said order and obtained a Resolution No.138 dt.31.03.2018 from the Grampanchayat wherein the Grampanchayat offered to give land admeasuring Ac.0-53 cents in survey No.55/B1 to the petitioner i.e., the same land back to the petitioner.

10. Alleging that the said Resolution was not implemented, Sri A.Veeresh filed W.P.No.25187 of 2018 and this Court passed order on 20.07.2018 in I.A.No.1 of 2018 in the said Writ Petition directing the Superintendent of Police, Kurnool as well as the Station House Officer, Devanakonda to implement the said Resolution passed by the Grampanchayat.

11. At the time when the said order was passed, this Court was not informed about the judgment of the Civil Court in O.S.No.92 of 1999 dismissing petitioner's claim for declaration, title and recovery of possession, which order had admittedly attained finality.

12. W.P.No.28026 of 2018 has been filed by the residents of Devanakonda Village challenging the Resolution No.138 dt.31.03.2018 passed by the Grampanchayat of Devanakonda in favour of the petitioner and in the affidavit filed therein they have mentioned about the judgment dt.02.11.2001 in O.S.No.92 of 1999 of the Junior Civil Judge, Pattikonda, Kurnool District and alleged that suppressing this judgment, Sri A.Veeresh had obtained orders in W.P.No.25392 of 2016 as well as in I.A.No.1 of 2018 in W.P.No.25187 of 2018 on 20.07.2018.

13. Therefore, both the Writ Petitions were clubbed together and heard.

14. Sri A.Veeresh has been impleaded as 6th respondent in W.P.No.28026 of 2018.

15. Counsel for Sri A.Veeresh does not dispute the judgment of the Civil Court rendered on 02.11.2001 in O.S.No.92 of 1999 wherein admittedly the claim of Sri A.Veeresh and his family members for declaration of title, for recovery of possession apart from mandatory injunction for removal of the road, was rejected after giving a specific finding that he and other plaintiffs failed to prove their title.

16. Once the said order has attained finality, Sri Veeresh could not have made any claim for compensation for laying road in the subject land or for restoration of possession of said land.

17. Though, it is the contention of the counsel for Sri A.Veeresh that subsequently revenue officials themselves realized their mistakes and wanted to transfer the title of the land to the petitioner, any such action on the part of the Revenue Officials, after the Revenue Officials and the State had succeeded in O.S.No.92 of 1999, cannot be said to be bonafide and in the public interest.

18. In this view of the matter, it has to be held that the observations made in W.P.No.25392 of 2016 that the petitioner is entitled to compensation for the subject land cannot be relied upon by the petitioner, since the petitioner

did not bring to the notice of the learned judge, who passed order dt.09.08.2016 in the said Writ Petition, the factum of dismissal of O.S.No.92 of 1999 filed by him and others. Consequently, the Resolution No.138 dt.31.03.2018 passed by the Devanakonda Grampanchayat on the basis of the said order in W.P.No.25392 of 2016 cannot also be sustained and it is accordingly set aside.

19. Accordingly, the Writ Petition No.28026 of 2018 is allowed and the W.P.No.25187 of 2018 is dismissed. The order dt.20.07.2018 in I.A.No.1 of 2018 in W.P.NO.25187 of 2018 is vacated.

20. Sri A.Veeresh, is granted two (02) weeks time to restore possession of the subject land to the Devanakonda Grampanchayat, if not, the Superintendent of Police, Kurnool, the Station House Officer, Devanakonda Police Station and the Tahsildar, Devanakonda shall restore possession of the land to Devanakonda Grampanchayat. No order as to costs in both the Writ Petitions.

21. Consequently, miscellaneous petitions pending, if any, in both the Writ Petitions shall stand dismissed.

M.S.RAMACHANDRA RAO, J

09th August, 2018.
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