

HON' BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.6023 of 2007

ORDER:

The prayer in the writ petition is to declare the action of the 2nd respondent in not taking any action against the 3rd respondent for not making the assessment of the property in Sy.No.118 admeasuring Ac.1.07 guntas, situated at Bhoktapur locality, Adilabad Town, Mandal and District Adilabad as illegal, and arbitrary and a consequential direction is also sought to direct the 2nd respondent to dispose of the representation of the petitioner dated 3.2.2006 in the light of the Circular Roc.No.9930/ 2006.E1 dated 26.6.2006 issued by the 2nd respondent.

The case of the petitioner is that he is the owner of the land in Sy.No.118 admeasuring 2503.69 sq. yards, out of total land admeasuring Ac.1.07 guntas; the petitioner filed O.S.No.89 of 2005 and obtained decree against the defendant; the petitioner also filed W.P.No.13263 of 2004 with a prayer to demarcate the land and to fix the boundaries; this Court directed the Assistant Director, Survey, Settlements and Land Records, Adilabad, to demarcate the land and to fix the boundaries; the petitioner submitted a representation to the 3rd respondent and the same was received by the 3rd respondent's office on 3.2.2006 requesting him to make assessment of the land and to collect the property tax by allotting a house number; the 3rd respondent rejected the representation of the petitioner; aggrieved by the same, the petitioner filed representation to the 2nd respondent with a request to direct the 3rd respondent to allot the door number by collecting the municipal fee in the light of the circular dated 26.6.2006 issued by the Commissioner and Director of Municipal Administration; the action of the 3rd respondent is against Section 82 of the A.P. Municipalities Act, 1965 and against the

circular dated 26.6.2006; the petitioner has gifted a part of the land admeasuring 25/ 120 sq.yards to his son vide Gift Deed dated 13.10.2006; the layouts have been sanctioned on the basis of forged and fabricated documents to three persons; the 3rd respondent is having three layouts on the property of the petitioner; challenging the same, the petitioner filed WP.No.3720 of 2007 before this Court with a prayer to quash the three layouts; the representation submitted by the petitioner to the respondent No.2 is pending and as the same is not disposed of, the present writ petition is filed.

Counter affidavit has been filed by the 3rd respondent municipality stating that the petitioner has submitted an application on 3.2.2006 along with a copy of order passed in W.P.No.13263 of 2004 dated 12.7.2005, copy of O.S.No.89 dated 20.6.2005 and panchnama of the Assistant Director of Survey and Land Records dated 26.12.200; the site was inspected with reference to the documents and the boundaries of site shown in O.S.No.89 of 2005 measuring 278.18 sq. yards i.e. South: House of Sri NNK. Reddy, North: Road leading to Tamsi village, East: House of Bandhukula Bhagwandlu and West: Open land belonging to the plaintiff; the application of the petitioner was rejected vide proceedings dated 7.11.2006 and that the petitioner has misguided the municipality by submitting unrelated documents.

Heard the learned counsel for the 3rd respondent and the learned Government Pleader for respondents 1 and 2.

As seen from the counter affidavit filed by the 3rd respondent, the representation of the petitioner dated 3.2.2006 is already disposed of on 7.11.2006. The proceedings dated 7.11.2006 reads as follows:

“Sri Sarfaraz Ahmed S/o Abdul Waheb has submitted an application along with copy submitted document No.3686/06 date: 13.10.2006 and copy of R.C.115/2004 copy of VAAJMULAM and requested to mutate the said vacant land measuring 20/120 living in Survey No.118/A, situated at Bhoktapur, behind Nataraj talkies. The document as submitted above is verified with regards and found that there are no assignment found in the name of Sri Abdul Wahab s/o. Abdul Majeed on the said site and further there is no layout sanctioned in the name of Abdul Waheb S/o. Abdul Majeed or in the name of his legal heirs. Hence, in view of the above application of Mr. Sarfaraz Ahmed S/o. Abdul Wahab for mutation by assigning. The tax allowing number cannot be considered and hereby rejected.”

Learned counsel for the petitioner has filed a copy of the decree of the suit which he is relying upon.

Learned Government Pleader submits that the petitioner had earlier filed WP.No.24736 of 2006 seeking similar relief and that the said writ petition was referred to the Lok Adalat and the Lok Adalat passed an award on 11.4.2015 relying upon the statement of the Municipal Commissioner, Adilabad, to the effect that the case of the petitioner will be re-examined, as per law, for the purpose of property tax and pursuant to the said undertaking, the Commissioner passed an order on 21.6.2018, which reads as follows:

“In obedience to the above orders of Hon'ble High Court of Judicature, Hyderabad, this office inspected the site with reference to the documents and the boundaries of site shown in O.S.No.89 of 2005 as follows:

South : House of Sri N.NK.Reddy.

North : Road leading to Tamsi Village

East : House of Badhkala Bhagwandlu

West : Open land belongs to the plaintiff.

The said site is situated at Bhuktapur near Croma Hospital near House No.7-2-52/ 10/ 1 and 7-2-52/ 10/ 3. But the petitioner Sri Abdul Wahab has shown the site i.e. the boundaries of the site situated at Bhuktapur are as follows:

East : Compound Wall of Natraj Theater

West: 30 fts wide road

North: Shops of Sri Rabhunath Mittal S/o. Shambunath

South : Open Plot

At the backside of Natraj Theatre nearest House No.6-6-15 wherein Sri Abdul Wahab S/o. Abdul Majeed has constructed 4 Nos. shops with Zinc Sheet measuring 58' x 25' and the said shops site are not tallied with the boundaries of the site shown in O.S.No.89 of 2005 and it is very far from the said site and in view of variation of site, the representation of Sri Abdul Wahab S/o. Abdul Majeed for collection of property tax duly allotted house number by making assessment on the site of Sy.No.118 cannot be considered."

As seen from the proceedings, the boundaries are not tallying with the contents in OS.No.89 of 85 and in view of the reasons assigned, the representation was not considered. As the petitioner could not present proper documents regarding his title, his request was rejected by the respondents. Hence, there are no merits in the writ petition and the writ petition fails.

Accordingly, the Writ Petition is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date: 30/11/2018

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