

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 28463 of 2018

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the official respondents more particularly respondents 3 and 6 in attempting to survey land admeasuring Ac.17.17 gts., in Sy.No.43 situated at Jeedimetla Village, Outbullapur Mandal, without issuing any notice to the petitioner as illegal and arbitrary.

2) The averments in the affidavit filed in support of the writ petition would show that the petitioner along with his brothers S.Gopal Reddy, S.Paghava Reddy and his mother S.Jayalakshmi are the absolute owners and possessors of land admeasuring Ac.17.17 gts., in Sy.No.43 situated in Jeedimetla Village, Outbullapur Municipality and Mandal, Medchal-Malkajgiri District, having purchased the same through various documents. Originally Smt. Asha Dilipraj Kancham and Gopal Kishan were the absolute owners of Ac.17.17 gts., in Sy.No.43 situated in Jeedimetla Village and other lands. The revenue authorities also issued pattadar pass books and title deeds in favour of the petitioner and his family members. When the brother of the petitioner applied for NOC, the 6th respondent vide proceedings No.A/ 176/ 2009 sent a report stating that Sy.No.43 does not fall under the Full Tank Level. While things stood thus, in the 2nd week of July, 2018, officials of

the respondents department came to the property and tried to conduct survey without giving any notice.

3) By an order dated 11.07.2016 in W.P.No.24260 of 2018 and Batch, a Division Bench of this Court while dealing with a question with regard to protection of lakes, observed as under:

“(1) The concerned respondents i.e. Greater Hyderabad Municipal Corporation (GHMC); Hyderabad Metropolitan Development Authority (HMDA), Irrigation, and Revenue, shall conduct survey of all lakes/tanks/lands within the limits of GHMC to determine FTL after issuing notice to the petitioners/ unofficial respondents or any other person who claim that their lands are within FTL and then, proceed to put

up fence, covering the FTL. Mr.Bhaskar Reddy, learned Special Government Pleader, submits that survey would be conducted by the Assistant Director, Survey and Settlements. His statement is accepted.

(2) It is open to the official respondents, then to take appropriate steps to erect fence and to take action, in accordance with law, for removal of encroachments, if any, in FTL area of the lakes.

(3) We hope and trust that the official respondents shall complete this exercise on or before 31.12.2016.

(4) If the concerned official respondents find that the lands fall within FTL, are private patta lands, they may give an intimation to such land owners and take further steps for acquiring those lands and for payment of compensation in accordance with law. It is needless to mention that the concerned authority shall complete acquisition proceedings and payment of compensation expeditiously. Parties have agreed that pending acquisition, they shall not have any objection for fencing FTL and even for removal of structures, if any, therein, after following due process of law and subject to their right to claim compensation in accordance with law.

(5) If right, title and interest of the petitioners in the lands within FTL is disputed/denied by the concerned official respondents, the District Collector shall inform the same to the petitioners/private respondents or any other person before the end of February, 2017 and in that eventuality, it is open to all such petitioners/private individuals to approach civil Court seeking declaration of their title. If the petitioners/private individuals succeed in establishing their title over the lands covered by FTL, the official respondents, subject to their right to appeal, shall take steps to pay compensation to all such petitioners/private individuals in accordance with law.

(6) Under any circumstances, the petitioners or other individuals/ encroachers shall not obstruct the concerned official respondent from erecting fence covering the FTL after the exercise of survey is complete and subject to their right to seek compensation, as aforementioned.

(7) While passing this order, we shall not be understood to have examined rights of the petitioners or private individuals or unofficial respondents.

(8) We make it clear that the HMDA shall act as nodal authority for giving effect to this order.

(9) The Pollution Control Board shall take all steps to prevent pollution in the lakes within the jurisdiction of HMDA. It is needless to mention that once FTL is determined, no construction shall be allowed in that area. This, however, shall not preclude the concerned authorities from strengthening the bund and development of pipeline by sewerage board within FTL area for preventing storm water in the lakes.”

4) Pursuant to the order passed by the Division Bench of this Court, the survey was sought to be conducted which is objected to by the petitioner, on the ground that no notice was given to him though he was having patta lands in the place where the survey was sought to be conducted.

5) In view of the above, the writ petition is disposed of directing the third respondent or to any of the authorities of the survey department, to issue notice to the petitioner informing the date and time of the survey before conducting the same.

6) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

21.08.2018
gkv

