

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.4956 OF 2008

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner requesting to issue a Writ of Mandamus declaring the action of the respondents in allotting house sites, under Indiramma Scheme, beyond the extent of land in Survey No.39 and thereby, affecting the petitioner's adjacent land in Survey Nos.40 and 41 of Venkatapur Village, Saroor Nagar Revenue Mandal, Ranga Reddy District, without initiating land acquisition proceedings, as illegal, arbitrary and unconstitutional. In this Writ Petition, a consequential direction to the respondents to obtain lay out after survey of the petitioner's land and fix the boundaries as per Survey and Boundaries Act, 1923, before allotting plots in Survey No.39 of Venkatapur Village, is also sought.

2. I have heard the submissions of the learned counsel for petitioner on 20.08.2018. Learned Government Pleader for Revenue sought time for instructions.

3. Today, when the matter is called, there is no representation for the Government/respondents. No counter is filed in this Writ Petition of the year 2008. I have perused the material record.

4. The submissions of the learned counsel for petitioner and the case pleaded by the petitioner, in brief, are as follows:

"The petitioner is the owner of the land of an extent of Ac.0-19 guntas in Survey Nos.40 and 41 of Venkatapur Village. The said land is adjacent to the land in Survey No.39. The respondents 2 and 3,

with an intention to allot the Government land in Survey No.39 as house sites under the Indiramma Scheme, started entering into the petitioner's land aforementioned. The petitioner applied for survey of the land, under the Survey and Boundaries Act, 1923 and paid the requisite fee for the survey, vide receipt No.GHAT-2-20071231472 for the purpose of fixing boundaries. Unless the survey is done and boundaries are fixed, plots in respect of the land in Survey No.39 cannot be allotted, as the petitioner is complaining that under the guise of allotting land in Survey No.39 towards house plots, respondents 2 and 3 are entering into the land of the petitioner in Survey Nos.40 and 41. In the event of survey, if it is found that the petitioner's land is required for allotment of house sites, the respondents cannot proceed further in the matter without acquiring the land of the petitioner for the desired purpose by following the procedure established by law. Hence, the present Writ Petition."

5. On 07.03.2008, this Court, having ordered notice before admission, granted the following interim order:

"Respondents are directed not to issue pattas to the beneficiaries under the Indiramma Scheme for a period of two weeks."

6. The said order was extended from time to time and on 09.06.2008, it was directed that the said interim order shall continue until further orders.

7. The only request of the petitioner in this Writ Petition is that the respondents 2 and 3, while allotting plots as house sites under Indiramma Scheme in Survey No.39 shall not affect the petitioner's adjacent land in Survey Nos.40 and 41. The petitioner fairly requested

the respondents, by paying the requisite fee, for conducting survey. Yet, no survey was conducted and the respondents 2 and 3 did not stop their actions. Therefore, the petitioner approached this Court.

8. Having given earnest consideration to the facts and submissions, this Court is satisfied that it is a fit case to grant the relief prayed for.

9. Accordingly, the Writ Petition is allowed as prayed for.

There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

August 24, 2018
MD



M.SEETHARAMA MURTI, J