

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WP No.10167 of 2019

ORDER::

This writ petition is filed seeking the relief as under:-

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ or order more particularly one in the nature of writ of mandamus declaring the action of the respondents 3 to 6 in interfering with peaceful possession and enjoyment over the petitioner house properties bearing Municipal Door No.18-13-6/87/2/G/9 and on plot No.9, Block-B situated at JB Colony, Hashamabad, Bandlaguda, Hyderabad, admeasuring 200 sq. yards and municipal Door No.18-13-6/87/2/G/10 & 11 on plot No.10 & 11, Block No.8 admeasuring 400 sq. yards situated at JB Colony, Hashamabad, Bandlaguda village and mandal, Hyderabad, thus totally admeasuring 600 sq. yards that too without following due process of law as illegal, arbitrary, unjust and also against Article 14, 19 and 300-A Constitution of India and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case.”

02. The facts stated in brief are:-the petitioner claims to be the absolute owner and possessor of house property bearing Municipal Door No.18-13-6/87/2/G/9 on plot No.9, Block-B situated at JB Colony, Hashamabad, Bandlaguda, Hyderabad, admeasuring 200 sq. yards having acquired the same by virtue of gift settlement deed executed by her husband Mohammed Imtiyaz Ali vide registered gift settlement deed No.1889 of 2018, dated 22-02-2018, (for short, “the said property”). That after execution of the registered gift of the said property, the petitioner got assessed the said property with the Municipal authorities by making on-line registration No.2600001086 and the Municipal authorities after verifying her title and ownership, allotted PTI/Assessment No.1261845660 besides assigning door No.18-13-6/87/2/G/9. That the petitioner

was issued with property tax special notice on 22-03-2018 and the petitioner has also paid the property tax to the Municipal authorities. Similar is the claim of the petitioner in respect of plot nos.10 and 11 referred to above in the prayer part.

03. It is also the case of the petitioner that in the year 2013, when disputes arose with her neighbouring owners, she approached the 3rd respondent and made an application to conduct survey and fix boundaries, pursuant to which, survey was conducted on 27-06-2013 and fixed the boundaries to the said property.

04. That while matters stood thus, the respondents 3 to 6 came to the said property and without following due process of law tried to dispossess the petitioner from the said property without there being any right or authority and when the petitioner questioned the same, the respondents 3 to 6 made attempts to forcibly evict her without following the due process of law and the said illegal action on their part is un-sustainable and violative of Articles 14, 19 and 300-A of the Constitution of India and also against the principles of natural justice. Hence this writ petition.

05. Counter affidavit is filed by the 3rd respondent wherein it is stated that the petitioner by taking advantage of the staff engaged in the works of General Election to the House of People (Lok-Sabha) 2019, started raising compound wall in Sy.No.13 of Bandlaguda Khalsa village, Bandlaguda mandal, Hyderabad district, which is classified as Sarkari-G-tank, Salkam cheruvu under the guise of Sy.No.301. That per the Town survey records, Sy.No.13 correlated

to Town survey No. 18, Block-A, Ward No.264 of Bandlaguda Khalsa village and recorded at Col.No.as 'Sarkari', at Col.No.20 as 'G-tank' and at Col.No.23 as 'Salkam cheruvu'. That the petitioner has approached this Court with unclean hands by submitting fake documents stating to be in possession of the said property. That the location map issued by the respondent do not show particulars of the said property of the petitioner, but only shows the location map of Sy.No.301 of Bandlaguda village and mandal. That the petitioner under the guise of the said property being situated in Sy.No.301 of Bandlaguda Khalsa village is trying to encroach the valuable Government land in Sy.No.13 of Bandlaguda Khalsa village, Bandlaguda Mandal, Hyderabad District. That the subject property is part of Salkam cheruvu, which is an obsolete lake having no water on its surface and the Salkam cheruvu has been occupied, the respondent has filed LGC No.30 of 2014 against the encroachers under the provisions of the TS Land Grabbing (Prohibition) Act and notices were issued and served on 327 encroachers and the said case has been transferred to the civil Court and the same is pending.

06. Heard the learned counsel for the petitioner, the learned Asst. Government Pleader for Revenue for respondents 1 to 3, the learned Standing Counsel for the respondents 4 to 6.

07. Inasmuch as it is stated by the learned Asst. Government Pleader for respondents 1 and 3 that 3rd respondents never interfered with the said property, as it is a vacant on ground and the matter is pending in civil Court. Learned Standing Counsel for

respondents 4 to 6 also submits that if any construction is made without obtaining permission on the said property, action to demolish the same would be taken by following the due process of law.

08. Recording the above submission made by the learned by the learned Asst. Government Pleader for respondents 1 to 3 and the learned Standing Counsel for respondents 4 to 6, the writ petition is disposed of accordingly. However, if any un-authorized construction is made by the petitioner on the said property, it is open for the respondent-Corporation to take action in accordance with law. Miscellaneous petitions, if any, pending in this case also stand disposed of. There shall no order as to costs.

A.RAJASHEKER REDDY, J

Dated: 04-12-2019
NRG

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