

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.13827 OF 2019 AND 35879 OF 2014

Date:10.07.2019

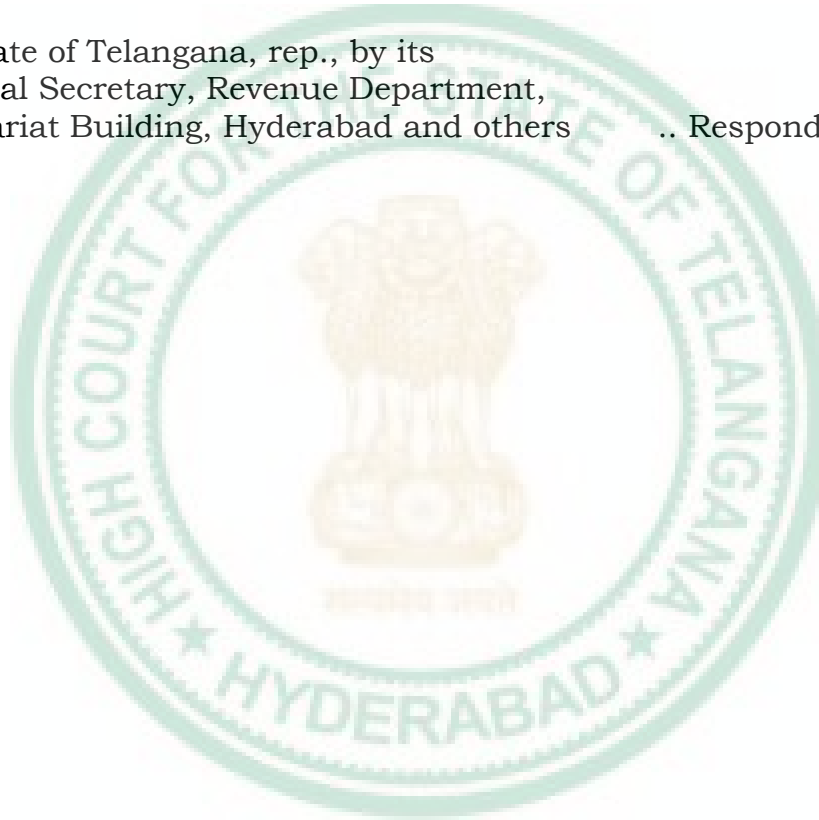
W.P.No.13827 of 2019

Between:

Balusukuri Kumaraswamy @ Balasukuri
Kumaraswamy, S/o. Late Yellaiah,
Aged about 58 years, Occ: Retd. Employee,
R/o.H.No.25-6-151, Bapujinagar Mandal,
Kazipet, Hanamkonda District .. Petitioner

And

The State of Telangana, rep., by its
Principal Secretary, Revenue Department,
Secretariat Building, Hyderabad and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION Nos.13827 OF 2019 AND 35879 OF 2014****COMMON ORDER:**

Heard learned counsel for the petitioner and learned Government Pleader for Revenue.

2. According to petitioner, his mother, Balasukuri Ilamma, purchased Ac.0.16 guntas of land in Survey No.287/150 of Gummuduru Village, Mahabubabad District, from the father of respondent No.4 in the year 1985, but petitioner is in possession of land to an extent of Ac.0.14 guntas only.

3. W.P.No.13827 of 2019 is filed praying to declare the action of official respondents 1 to 3 in forcing the petitioner to evict him from the land in Survey No.285/150 to the extent of Ac.0.14 guntas without following due process of law and resuming the land as illegal, arbitrary and unjust.

4. The brief facts of the case are that the petitioner earlier filed W.P.No.11312 of 2011 praying to declare the action of the respondents in trying to demolish the residential house in an extent of Ac.0.16 guntas in Survey No.287/150 situated in Mahabubabad, as illegal, arbitrary, biased and politically motivated. The said writ petition was disposed of by order dated 21.04.2011 directing the Tahsildar, Mahabubnagar, not to dispossess the petitioner from the subject land and not to interfere with his possession without following due process of law.

5. Petitioner filed W.P.No.35879 of 2014 praying to declare the inaction of respondent No.4 in not mutating the properties of the petitioner in the revenue records as illegal, arbitrary, biased and unjust. He filed O.S.No.27 of 2015 in the Court of Principal Junior Civil Judge, Mahabubnagar, praying to restrain the defendants, their agents, workmen and all persons from interfering with his peaceful possession and enjoyment over the suit schedule property. Having regard to the evidence on record, the trial Court dismissed the said suit by judgment dated 10.06.2019. From a reading of the judgment, it is apparent that land was resumed and possession was already taken over by respondent No.1 and pahanies also reflect the resumption of the land by the Government. It is appropriate to note the observations in the said judgment in paragraph Nos.10, 11 and 12. They read as under:

“10. The plaintiff is neither the original assignee nor his heirs, the pahanies filed by defendant under Ex.B16 would clearly show that less land to resumed to state government and whether the officials followed the procedure or not cannot be the ground for the plaintiff to claim the possession over the suit schedule property.

11. The clear picture of case is that as on the date of filing of the suit the plaintiff is not in possession of the suit schedule property as per Ex.B16, plaintiff has filed to file any document against Ex.B16 to state that their possession is recorded and they are in possession.

12. The documents filed by plaintiff do not support the plaintiff's case to establish his possession over the suit schedule property as on the date of filing of the suit. Therefore, the plaintiff is not entitled for the permanent injunction as he is not in possession of the suit schedule property as on the date of filing of the suit.”

6. It is thus clear that petitioner was a purchaser of the land, which was assigned, and on the allegation of violation of terms, the land was resumed and therefore petitioner is no more in possession. In W.P.No.13827 of 2019, petitioner is praying the respondents not to evict him from the above said land without due process of law. Having regard to the decree suffered by the petitioner before the trial Court on the very same aspect, it is no more open to him to contend that he is in possession and the respondents are required to follow due process before evicting him.

7. Having regard to the above facts, the prayer in W.P.No.35879 of 2014 seeking to mutate the name of the petitioner in the revenue records and the prayer in W.P.No.13827 of 2019 praying not to evict him from the subject land without following due process cannot be granted. The Writ Petitions are liable to be dismissed and are accordingly dismissed. There shall be no order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

Date:10.07.2019

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P. NAVEEN RAO, J