

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.17957 OF 2019

Date: 28.08.2019

Between:

Fareeda Begum D/o.Shaik Hussain,
Aged about 31 yrs, Occu : Housewife,
R/o.H.No.19-1-338, Chatakripura,
Kamatipura, Bahadurpura, Hyderabad-500 064 & others.

.....Petitioners

And

The State of Telangana,
Rep., by its Principal Secretary to
Revenue Department,
Secretariat Buildings, Hyderabad & others.

.....Respondents



The Court made the following:

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ORDER:

Heard learned counsel for the petitioners, learned Government pleader for revenue for respondents 1 to 11 and learned Government pleader for Forest for respondents 12 & 13.

2. Eleven petitioners instituted this writ petition. Ten petitioners are represented by the 11th petitioner as Power of Attorney Holder. Petitioners seek declaration of action of respondents 7 to 10, the District Revenue officials in not issuing pattadar pass books and title deeds, entries in e-pahanies in respect of petitioners landed property covered by Sy.Nos.1/5 to 1/15 admeasuring Ac.185-03 guntas of Kancha Chilukur Village, Moinabad Mandal, Ranga Reddy District, inspite of issuing supplementary Setuwar dated 07.08.2005 even though applications were received under Form VI-A of the Telangana State Rights in Land and Pattadar Passbooks Act, 1971 (for short the Act, 1971) on several dates, as illegal, arbitrary and unjust.

3. In the affidavit filed in support of the writ petition, petitioners do not state how they claimed to have succeeded to the property in issue. But a reading of the representations which are made part of the writ petition paper book would show that according to them, they are successors to his Excellency Nizam Mir Osman Ali Khan-VII and the said extent of land is private land of Late Mir Osman Ali Khan. According to petitioners, supplementary setuwar was issued on 07.08.2005, wherein, the revenue records, reflect the names of petitioners on respective extents of lands in the sub-divisions 5 to 15 of Sy.No.1. It is further averred that as

per the directions of the Collector (Surveyor), Ranga Reddy District, the Assistant Director, Survey and Land Records, Ranga Reddy District, conducted survey and reported to the Collector, the result of survey conducted by him. A reading of the report would show that survey was conducted and demarcation was made showing the existence of private land with sub-divisions. Though sub-divisions were made, the revenue records have not reflected the same for several years, petitioners have been applying to issue pattadar pass books and title deeds, but for no reason, the same are denied. Several representations are made to the District Revenue Authorities and to the Commissioner of Land Administration. On account of inordinate delay, grave injustice is caused.

4. In other words, petitioners set up their claim to the extent of land admeasuring Ac.185.03 guntas in Sy.No.1 of the Kancha Chilukur, by claiming as successors to late Nizam. However, no material is placed on record to show that they are successors to late Nizam, that property fell to their share and the property is divided by way of family settlement among the petitioners with respect to extents of land falling to their respective shares. It is not known how a surveyor who conducted survey to identify private land would straight away divide the land into sub-divisions and earmark different extents of land in each sub-division in the name of individual petitioners.

5. The averments in the affidavit filed in support of the writ petition are vague. They have not shown how they are making a claim of ownership and to issue pattadar pass books and title deeds.

6. On instructions, learned Government Pleader for Forest, asserts that entire extent of land is forest land and in collusion with some officials of the department, private persons are trying to grab the forest land. The material placed on record, as noted above, justifies the stand of learned Government Pleader.

7. It is interesting to notice the report submitted by Sri A. Kishan, IFS on 23.05.2018, who worked as District Forest Officer, Ranga Reddy District, to the Commissioner, Survey Settlement and Land Records, Hyderabad. A reading of this report would show that the survey authorities have colluded with private persons to knock away the land which is forming part of forest land and that appropriate measures have to be taken to protect the forest land. He has given the names of survey officials against whom he suggested to take action. He also alleged that the total extent of land in Sy.No.1 was Ac.1400-00 guntas. Earlier the survey was conducted and demarcation was made identifying the entire extent of land as forming part of Forest land but mischievously some alterations were made subsequently and efforts are being made to encroach into Ac.250-00 guntas of land by manipulating the records. He has also gone to the extent of alleging that the relevant records were taken away by the survey officials whose names are mentioned in the said report. He requested the Commissioner to ensure that no such encroachments take place and to protect the forest land. It is not known what action was taken on the report. It is appropriate to note that this report was subsequent to the alleged claim of a supplementary setuwar issued in the year 2005.

8. Further, from the Award of the Collector, land acquisition, a copy of which is filed from Page Nos.36 to 38 in the writ petition paper book, it would show that Ac.16076 and 25 guntas was proposed for acquisition to establish forest after excluding Ac.85.00 guntas to be retained for the purpose of graveyard, Dargah and garden belonging to the Estate of then Nizam. The entire extent of land comprising 14 Kanchas belong to the Estate of then Nizam. The acquisition was for dry afforestation purpose. The officials negotiated with then Nizam to determine the amount payable towards such acquisition. Accordingly an amount of 4 lakhs seems to have been paid towards acquisition of land as noted above. It is thus apparent that the land originally stood in the name of Nizam was acquired for afforestation after paying compensation for such acquisition. Therefore, even assuming that petitioners are descendants of late Nizam and have succeeded to the properties owned by Nizam, in so far as the present land is concerned, it appears from the record, that it was acquired by paying compensation and entire extent has become forest land. If it is the case of petitioners that entire extent of land as shown in Sy.No.1 was not acquired, they have to establish and assert their title.

9. From the letter of Collector, Land Records, Ranga Reddy District, dated 06.08.1997, addressed to the Mandal Revenue Officer, Ranga Reddy District, the extent of land under forest control and defence authorities in Sy.No.1 of Kancha Chilukur is shown as Ac.1417.15 guntas. According to this report, approximately, Ac.10.20 guntas of land was encroached. From a mere reading of this report it appears that Ac.185.35 guntas is

without any encroachment. However, strangely, he orders to release the same in favour of Mohammed Ghousuddin and others, and directs the Mandal Revenue Officer to make necessary arrangements. How such directions are valid is not explained.

10. The Tahsildar in his letter to the Forest Settlement Officer, dated 07.02.2008 informs him that Khasra Pahani of Chilukur is not available and that land in Sy.No.1 is not recorded in Sesala pahani from the years 1955 -58. However, he acknowledged that the total extent of Sy.No.1 is Ac.1417.15 guntas, recorded in the name of Kancha Chilukur from the year 1969 to 2002 and from 2003 onwards it is recorded as Chilukur forest. This correspondence would show that in the revenue records, the entire extent of land is shown as forest land. Thus, the basis of claim of petitioners is not substantiated.

11. The material on record would show that Sy.No.1 was never sub-divided. Therefore, it is not known how a survey authority shown sub-divisions by apportioning the land in favour of petitioners. It appears that the said survey was conducted on their own by the survey officials in the presence of some unidentified persons. It is not disclosed as to how those persons were selected as panchas in conducting survey. In the said manner the survey was conducted and also panchanama was recorded to show the extent of land in favour of petitioners. It appears from a reading of panchanama and the survey report that the forest officials were not part of the said survey. On the contrary, according to the report of then District Forest Officer, the Assistant Director of Survey and Land Records, Ranga Reddy District, by name Sri Ranga Reddy, conducted joint survey with the Forest Technical

staff, boundaries were fixed and fenced it with reference to Traverse Stores in red colour. If survey was already conducted in the presence of Forest technical staff, it is not explained how a fresh survey was conducted, more so, without intimation to the forest officials.

12. Thus, all these documents and the report do not justify, prima-facie, claim of the petitioners that they have succeeded to the land originally belonged to late Nizam and that they are entitled to issuance of pattadar pass books and title deeds. Further except placing reliance on a supplementary setuwar stated to have been issued, they have not shown material pointing out reflection of their names in the revenue records. The question of issuance of pattadar pass books would arise only if names are mutated in the revenue records.

13. In the above circumstances, merely because petitioners make representations and allege inaction to issue pattadar passbooks and title deeds, in the teeth of the documents placed on record, which do not support their claim of ownership, the relief sought in the writ petition cannot be granted.

14. Writ Petition is accordingly, dismissed. However, notwithstanding the above observations, it is always open to petitioners to establish their title to the property in issue by availing remedy in common law, if so advised. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

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