

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.20305 of 2019

ORDER:

This Writ Petition is filed seeking to issue a writ of *Mandamus* declaring the action of respondent Nos.1 to 7 in allotting the petitioner's land in Sy.Nos.182/1 and 182/2 co-related to T.S.No.11/1 & 11/2 admeasuring Ac.1.07 guntas situated at Moghal Ka Nala, Asifnagar Mandal, Hyderabad, to respondent Nos.8 and 9 for burying the unclaimed dead bodies, without following due process of law, as illegal and arbitrary.

The case of the petitioner, in brief, is that he is the owner of the subject land; that on an earlier occasion, when the Wakf Board claimed to be the owner of the said the property, a suit-O.S.No.110 of 2006 came to be filed against the A.P. State Wakf Board, represented by its Chief Executive Officer, on the file of the A.P. Wakf Tribunal, Hyderabad; that the said suit came to be decreed on 20.01.2010 and the gazettee notification, dated 21.3.1985, treating the suit schedule property as the wakf property, was set aside; and that in the said decree, not only the subject property of the petitioner but also a total extent of Ac.6.14 cents of land in Survey Nos.182/1 and 182/2 of Gudimalkapur Village, Hyderabad, was involved. Likewise, when the property was claimed as a government property and also the property of respondent No.8, a suit-O.S.No.2875 of 2011 was filed before the learned IV Junior Civil Judge, City Civil Court, Hyderabad, in which respondent No.8 herein was arrayed as defendant No.8 and after a full-fledged trial, the Court below *vide* judgment, dated 27.8.2018,

held that the petitioner herein, *i.e.*, plaintiff No.2 in the said suit, is the absolute owner of the suit schedule property.

The petitioner asserts that by the said judgment, he was not only declared as the owner of the subject property but also injunction was granted in his favour. He further asserts that the said judgment of the trial Court, as confirmed by this Court in C.R.P.No.1324 of 2010, was challenged before the Supreme Court and the Hon'ble Supreme Court dismissed the S.L.P.

The sum and substance of the arguments advanced by learned counsel for the petitioner is that the petitioner is the absolute owner of the subject land and neither the respondent Corporation nor respondent Nos.8 and 9 have any right and title over the same. However, hectic efforts are being made to convert the subject open land into a burial ground and in those circumstances, the petitioner seeks to issue a writ of *Mandamus*.

Learned Standing Counsel for the respondent Corporation denied the allegation of the petitioner that there was a proposal or action taken by the respondent Corporation for converting the subject land into a burial ground. He would further submit that Survey Nos.182/1 and 182/2 are vast extents of land and probably, the petitioner is actually seeking a relief against respondent Nos.8 and 9 in the present Writ Petition.

Having considered the respective rival submissions of the learned counsel, at the outset, it may be noted that the petitioner has injunction in his favour against the official respondents as well as respondent No.8 herein, *vide* judgment and decree, dated 27.8.2018,

in O.S.No.2875 of 2011 on the file of the learned IV Junior Civil Judge, City Civil Court, Hyderabad, which became final.

It is with regard to the same suit schedule property, the petitioner apprehends that the official respondents may allocate the said land to respondent Nos.8 and 9 for the purpose of burying the unclaimed dead bodies.

As already stated supra, as the petitioner has an injunction in his favour in respect of the subject land, it is always open for him to approach the Executing Court with proper application seeking to enforce the said judgment and decree.

As the petitioner expressed an apprehension that the Executing Court may not act expeditiously, the executing Court is directed to take up the application filed by the petitioner, as and when it is filed, on an expeditious basis and pass appropriate orders thereon by taking into consideration the pleadings of all the parties as well as the material placed on record.

Subject to the above direction, the Writ Petition is closed.

Pending Miscellaneous Petitions, if any, shall stand closed. No order as to costs.

JUSTICE CHALLA KODANDA RAM

19th September, 2019

Note:

Issue CC by 23.9.2019.

B/o

dr