

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

W.P.No. 23281 of 2019

Date: 25.10.2019

Between :

Kota Israil

Petitioner

And

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

Respondents



This court made the following :

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ORDER :

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

2. According to the petitioner, his father late Hanumanthu was the possessor of land admeasuring Ac.1-08 guntas in Survey No.88/U situated at Mandalapadu village, Penuballi mandal, Khammam district and after demise of his father, the names of petitioner and his three brothers were shown in possessor column and name of Samboji Venkataramayya was shown in pattadar column. At paragraph 4 of the writ affidavit, petitioner contends that his father's name was recorded in the possessor column in 1954-55 khasra pahani and thereafter petitioner and his brothers have been cultivating the land. Petitioner alleges that based on a false complaint made by some disgruntled elements that the subject land was proposed for SC Colony, petitioner and his brothers were directed not to cultivate the land. When the petitioner and his brothers were sought to be dispossessed by some private persons, they instituted O.S.No.105 of 2012 before the Principal Junior Civil Judge, Sattupalli and the trial Court by order dated 28.12.2012 in I.A.No.245 of 2012 granted interim injunction. In spite of injunction granted, again complaints were filed before the 3rd respondent- Revenue Divisional Officer, making similar allegations and the 3rd respondent without following due process of law, by order dated 27.5.2016 directed the Tahsildar to remove the names of petitioner and his brothers from the revenue record and accordingly names of petitioner and his brothers were removed from the possessor

column. However, petitioner claims that he has been in physical possession of the subject property.

3. This writ petition is filed questioning the action of respondents in making construction activity in the subject land and seeks a direction to the respondents not to restrain the petitioner from cultivating the subject land till resurvey is conducted.

4. On perusal of the material on record, it is seen that the 3rd respondent passed order on 27.5.2016 holding that the petitioner herein and his brothers came on record not in accordance with the rules and regulations prevailing, as such, their entries in the revenue records in respect of subject land are false and needs no consideration and advised to cancel the same and accordingly directed to remove the encroachment and cancel the entries.

5. Learned counsel for petitioner sought to contend that the petitioner and his brothers purchased land in the year 1980 and are in continuous possession since long time and therefore they are rightful owners of the subject property and no construction can be made on the land belonging to the petitioner and his brothers without following due process of law. I am afraid I cannot accept the said contention, as the order passed by the Revenue Divisional Officer dated 27.5.2016 is not under challenge. Learned counsel for petitioner sought to contend that petitioner is not aware of the order passed by the Revenue Divisional Officer and he came to know only recently. That also would show that atleast now he is aware of the order.

6. As against the order passed by the Revenue Divisional Officer, petitioner has remedy by way of filing revision before the revisional authority. Without availing the said remedy, this writ petition is filed. When an effective and efficacious remedy is available, writ courts do not entertain the writ petition. Thus, granting liberty to the petitioner to avail the said remedy, if so advised, this writ petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed.

Date: 25.10.2019
DA

P.NAVEEN RAO,J



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