

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

I.A.No.2 of 2018
and
WRIT PETITION No.25634 of 2018

ORDER:

This writ petition is filed seeking to declare the action of the 1st respondent in trying to take possession of the lands of the petitioners, as illegal and arbitrary.

2. I.A.No.2 of 2018 is filed to vacate the interim order of *status-quo* granted by this Court on 24.07.2018.

3. Petitioners assert that they are absolute owners of the total land admeasuring 600 sq. yards in Sy.Nos.40/1, 40/2, 42 and 43, situated at Kesavaswamy Samathy, Jiaguda, Hyderabad, out of the land to an extent of Acs.17.00 gts. They assert that at the instance of the 4th respondent, who is a land grabber over the land to an extent of Acs.6.03 gts in Sy.No.71, which was determined as surplus land in the urban land ceiling proceedings, the Municipal Authorities are laying a road stating that the existing road is being strengthened. Petitioners further assert that the 1st respondent issued proceedings dated 30.11.2017 to the petitioners stating that the Tahsildar, Asif Nagar Mandal Hyderabad, had informed that the land falls in T.S.No.8, Block-K, Ward-28 of Kulsumpura Village, Asifnagar Tahsil, Hyderabad, as per TSLR record, in Col.No.10, is recorded as 'Haji Iqbal Deva Saxina' and in Col.No.20, it is recorded as 'GVM' (Government Vested with Municipality) admeasuring 654.0 sq. metres and the

classification of the land is GVM on ground road is existing and that the House bearing No.13-3-506/38/173/1, Ziaguda, Hyderabad, has been obtained by private persons by misrepresentation of the facts and it is a Government land and that based on the report of the Tahsildar, the assessment is cancelled. Petitioners assert that at the instance of the 4th respondent, who made an application on 01.11.2017, the said proceedings were issued and the said fact itself is proved positive with respect to the *malafide* action of the respondents.

4. The Deputy Executive Engineer of the 1st and 2nd respondents Corporation filed counter denying the allegations made in the writ petition. He asserted that the petitioners are trying to occupy the Government land, where there is a road leading to the place where the Government is undertaking to construct 3000 double bed room flats. He further asserted that the land claimed by the petitioners belongs to the Government and they have nothing to do with the same and that the sale deeds relied upon by the petitioners were cancelled by the competent authority as they are bogus and concocted. He further asserted that the entire area is very developed with all constructed houses and that the survey numbers mentioned by the petitioners are not in existence and as a matter of fact, the land comes under T.S.No.8, Block No.K, Ward-28 of Kulsumpura Village, Asif Naga Taluq. He further asserted that as per the records available and the report of the Tahsildar, dated 08.11.2017, there is existing road in a Government Land

over an extent of 654 sq. mtrs. He further asserted that purchase of the land to an extent of Acs.17.00 gts in Sy.No.40/1 by various persons is found to be bogus and concocted and therefore, the same was cancelled. At any rate, if the petitioners have any right over the properties acquired, they should approach the competent civil Court to prove their title and possession. He further asserted that opportunity of hearing was also given to the petitioners. He also asserted that the Corporation is undertaking to lay a road by incurring expenditure of Rs.13.25 lakhs and 75% of the work has already been completed. But, on account of the order of *status quo* granted by this Court on 24.07.2018, the balance work is not completed, which is causing inconvenience.

5. Along with the counter, respondents 1 and 2 also filed letter dated 08.11.2018 addressed to the District Collector by the Tahsildar, Asifnagar; proceedings of the Deputy Commissioner, GHMC dated 30.11.2017; letter dated 20.04.2018 addressed to the Sub-Registrar, SRO, Charminar, directing to take action with respect to the sale deeds vide document No.1193 of 2015 dated 16.03.2015 and document No.4468 of 2017 dated 23.09.2017; the proceedings of the Sub-Registrar, Golconda, dated 12.03.2018 and the Sub-Registrar, Charminar, dated 15.05.2018, informing about cancellation of the said documents; and also the endorsement of the Collector dated 16.12.2018.

6. The 4th respondent also filed counter asserting that the petitioners have not approached the Court with clean hands, particularly, they had suppressed the fact that the 2nd petitioner has filed O.S.No.2477 of 2017 on the file of the IX Junior Civil Judge's Court, Hyderabad, in which I.A.No.523 of 2017 filed for injunction was dismissed, against which, the 2nd petitioner preferred C.M.A.No.8 of 2018 on the file of the IX Additional Chief Judge, City Civil Court, Hyderabad and the same was also dismissed. He further asserted that the civil Court has taken into consideration all the specific assertions of the petitioners. He further asserted that though the petitioners had relied on the sale deeds alleged to have been executed, curiously, their vendors do not state their source of title, which establishes that the sale deeds were created for the purpose of grabbing the land of the Government. He further asserted that the District Collector had cancelled the sale deeds executed in favour of petitioners 1 and 2. The 4th respondent enclosed the order dated 11.12.2017 passed in I.A.No.523 of 2017 in O.S.No.2477 of 2017 by the IX Junior Civil Judge, City Civil Court, Hyderabad, and also the photographs showing existence of the road.

7. Having regard to the aforesaid averments and the respective submissions, there is a serious doubt with respect to the title of the petitioners over the land claimed by them. As on date, as evident from the proceedings of the District Collector and the Sub-Registrar, the documents alleged to have been executed in favour of petitioners 1 and 2 in 2015 stand cancelled. It is not

clear at this point of time as to whether the documents executed in favour of petitioners 3 and 4 also stand cancelled or not as asserted by the respondents. Perusal of the documents does not indicate the source of title by the vendors of the petitioners. A close scrutiny of the document executed in favour of petitioners 3 and 4 vide document No.1164 of 2015 indicates that the 1st petitioner is the executant of the sale deed. Likewise, the 1st petitioner also executed the document in favour of Smt P. Lalitha Bai, vide document No.1193 of 2015. Smt P. Lalitha Bai, who alleged to have acquired title to the property, in turn, alleged to have been executed registered sale deed in favour of one Piyush Kumar Sahoo, 2nd petitioner herein, vide document No.4468 of 2017. This document and also the document No.1193 of 2015 stand cancelled by the Sub-Registrar at the instance of the Collector. In other words, as asserted by the respondents, there is a cloud with respect to the very title of the petitioners coupled with the fact that the sale deeds do not indicate the source of title to petitioners 1 and 2.

8. Viewed from any angle, the specific assertion of the Municipal Authorities based on the communication from the Tahsildar that the subject land is a Government land and the title vests with the Government cannot be brushed side. There is no reason to disbelieve, at this point of time, the specific assertion in the counter affidavit sworn by the Deputy Executive Engineer that a road is being laid and 75% of the work has already been completed.

9. In those circumstances, this is not a case where interim order of *status quo* granted at the admission stage deserves to be continued. Accordingly the same is vacated and I.A.No.2 of 2018 is allowed.

10. After pronouncement of the order vacating the interim order, learned counsel for the petitioners submits that this order can be made as final order. As desired by the learned counsel, the above order is to be treated as final order in the writ petition.

11. Accordingly, the Writ Petition is dismissed. However, it is made clear that the observations made in the writ petition shall not be construed as final opinion with respect to the title of the property as the petitioners have to establish their title over the subject properties before the competent civil Court. No order as to costs.

12. Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

CHALLA KODANDA RAM, J

12th March, 2019

sj