

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.5996 OF 2020

DATED :18.03.2020

Between :

Smt. Morampudi Vijayalaxmi, W/o.late Vijayababu,
Aged 54 yrs, Occu : Agriculture,
R/o.H.No.1-7A, Lachannagudem Village,
Vemsoor Mandal, Khammam District.

..... Petitioner

And

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

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.5996 OF 2020

ORDER :

Heard learned counsel for the petitioner and learned Government Pleader for Revenue appearing for respondents 1 to 4.

2. This writ petition is filed by the petitioner praying to declare the action of respondents in trying to construct graveyard in her land, as illegal and arbitrary. Petitioner claims that her father-in-law, was the owner of lands to an extent of Ac.0-10 guntas in Sy.No.1208/AAS, Ac.0-05 guntas in Sy.No.1209/AA, Ac.0-05 guntas in Sy.No.1209/AA, Ac.0-23 guntas in Sy.No.1210/A, Ac.0-19½ guntas in Sy.No.1211/A, Ac.0-03 guntas in Sy.No.1212/AA, Ac.0-20 guntas in Sy.No.1487/A, Ac.1-28 guntas in Sy.No.1521/AAA, Ac.2-30 guntas in Sy.No.1510/A and Ac.3-17 guntas in Sy.No.1521/A/A and the said lands were transferred to her husband. After the death of her husband on 02.09.2010, the property is vested in her, and she claims to be in possession and enjoyment of the above said lands. Petitioner alleges that the respondents pressurized her to part with the land to an extent of Ac.5-05 guntas in Sy.No.1521 for construction of graveyard, but she refused to part with the land. Hence, they are now taking steps to construct graveyard in the land belonging to her, without following the due process.

3. In support of her claim that she is the owner of land, photocopy of pattadar pass book, bearing Patta No.1065, stated to have been issued to her, reflecting the extents of land mentioned above, as belonging to her, is filed at Page Nos.9 and 10 of the writ

petition paper book. Except for the photocopy of pattadar pass book and averments in the affidavit filed in support of the writ petition, no material is placed on record to show that the property belongs to the petitioner; that the respondent-Gram Panchayat is undertaking construction of graveyard in the land belonging to her, without following the due process. Petitioner has not protested on the allegation of construction of graveyard on the land belonging to her, but straight away instituted this writ petition, with vague averments, supported only by photocopy of pattadar pass book.

4. According to learned Government Pleader in many villages where, there exists graveyard, Government has sanctioned money for improvement of the existing graveyards and in a village if there is no graveyard, money is also sanctioned for establishment of the same and for this purpose the Tahsildar is required to identify the land and to hand over possession to Gram Panchayat. Thus, the Executing Authority or the Authority who is entitled to maintain and improve the facilities in the existing graveyard is the Gram Panchayat.

5. If what is alleged by the petitioner is true, petitioner ought to have protested before the competent Authority i.e., Tahsildar or the Panchayat Secretary, making the allegations as sought to be asserted in this writ petition, but could not have instituted this writ petition, straight away seeking declaration, not to construct graveyard. It is needless to observe that private land cannot be used for public purpose without following the due process. Therefore, petitioner has to first assert before the Gram Panchayat or Tahsildar, that there does not exist graveyard and that a new graveyard is proposed on land belonging to private person. In the

absence of any proceedings to show that this land is identified by the Tahsildar or by the Gram Panchayat to construct graveyard, the relief sought in the writ petition cannot be granted.

6. Having regard to the above observations, the Writ Petition is dismissed, leaving it open to the petitioner to make appropriate application before the Tahsildar and/or the Gram Panchayat, by submitting all the documents in support of her claim that she is the owner of land, which is now identified for construction of graveyard, without following the due process and on submission of such application, the same shall be considered, in accordance with law. Pending miscellaneous petitions, if any, shall stand closed.

18th March, 2020

P.NAVEEN RAO,J

Note :

1. Issue c.c. in one week
2. Communicate copy of this order to the respondents within one week.

B/o.
Rds