

**HIGH COURT FOR THE STATE OF TELANGANA
(Special Original Jurisdiction)**

**WEDNESDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY**

PRESENT

HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION NO: 10327 OF 2019

Between:

Zaheera Ameer, W/o Dr. T. Ameer Khan, Aged about 58 years, R/o. H.No. 8-1-299/111, Al- Hamra Colony, Shaikpet, Hyderabad.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary (Revenue), Secretariat Buildings, Hyderabad.
2. The District Collector, Hyderabad District, Hyderabad.
3. The Special Officer and Competent Authority (ULC), Urban Land Ceiling, Hyderabad.
4. The Tahsildhar, Shaikpet Mandal, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue any writ, order or direction more particularly one in the nature of a writ of Mandamus declaring the action of the Respondents in trying to dispossess the petitioner from her house property i.e. H.No. 8-1-299/111, admeasuring 320 Sq. Yards, Al- Hamra Colony, Shaikpet, Hyderabad, as illegal, arbitrary, in violation of Articles 14, 21 and 300-A of the Constitution of India and also in violation of principles of the natural justice, besides in violation of Urban Land Ceiling (Repeal) Act, and consequently direct the respondents not to interfere with peaceful possession of the petitioner over house property i.e. H.No. 8-1-299/111, admeasuring 320 Sq. Yards, Al- Hamra Colony, Shaikpet, Hyderabad.

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents not to interfere with peaceful possession of the petitioner over house property i.e. H.No. 8-1-299/111, admeasuring 320 Sq. Yards, Al- Hamra Colony, Shaikpet, Hyderabad, pending disposal of the above writ petition.

Counsel for the Petitioner: SRI ABDUL RAHIM

Counsel for the Respondents: AGP FOR REVENUE

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.10327 of 2019

ORDER:

This Writ Petition, under Article 226 of the Constitution of India is filed by the petitioner, wherein, the following prayer is made:

"...to issue any writ, order or direction more particularly one in the nature of a WRIT OF MANDAMUS declaring the action of the respondents in trying to dispossess the petitioner from her house property, i.e. H.No.8-1-299/111, admeasuring 320 square yards, Al-Hamra Colony, Shaikpet, Hyderabad, as illegal, arbitrary, in violation of Articles 14, 21 and 300-A of the Constitution of India and also in violation of principles of natural justice, besides in violation of Urban Land Ceiling (Repeal) Act and consequently direct the respondents not to interfere with peaceful possession of the petitioner over house property i.e., H.No.8-1-299/111, admeasuring 320 square yards, Al-Hamra Colony, Shaikpet, Hyderabad, and to pass such other order or orders...."

2. Heard the learned counsel for the petitioner, learned Assistant Government Pleader for Revenue appearing for the respondents and perused the record.

3. The learned counsel for the petitioner would submit that the petitioner is the absolute owner and possessor of the house bearing No.8-1-299/111, admeasuring 320 square yards situated at Al-Hamra colony, Shaikpet, Hyderabad, having purchased the same under a registered sale deed *vide* document No.4232 of 1995, dated 14.09.1995 from Gomi Bai and others. It is contended that the petitioner and her predecessors-in-title obtained electricity and water connections to the said property and the petitioner is paying consumption charges regularly to the concerned authorities. The respondents, without having any manner of right, whatsoever, are causing interference with the

peaceful possession and enjoyment of the petitioner over the subject property and trying to evict the petitioner with an intention to harass her and ultimately prayed to grant the relief as indicated above.

4. On the other hand, learned Assistant Government Pleader for Revenue on written instructions, would submit that the subject land is Ceiling Surplus land. The Enquiry Officer from Urban Land Ceiling (ULC) office took possession of the subject land under Section 10(6) of the Urban Land (Ceiling and Regulation) Act, 1976 by following due process of law and thereafter, handed over the same to the then Deputy Tahsildar, Shaikpet Mandal, under cover of panchanama and sketch. Thus the State Government has become absolute owner and possessor of the subject land. The subject land is surrounded with the compound wall and a sign board is also erected therein. In this connection, the respondent No.4-Tahsildar, Shaikpet Mandal, Hyderabad, filed LGC No.38/2012 before the Special Court constituted under A.P. Land Grabbing (Prohibition) Act, 1982, wherein the learned Special Court granted *status quo* order. Subsequently, the said LGC No.38/2012 was renumbered as LGOP No.164/2017 and pending for adjudication. It is further submitted that neither the petitioner nor her predecessors-in-title were never in possession over the subject land at any point of time. All the averments made in the writ petition are absolutely false and ultimately, prayed to dismiss the writ petition.

5. As per the submissions made by the learned Assistant Government Pleader for Revenue, the subject land is Ceiling Surplus land and the Government has taken possession of the same by following due process of law. Further, the petitioner is not at all in possession of the subject land. The contention of the petitioner is that she has constructed one room and compound wall over the subject land. Whereas the learned Assistant Government Pleader for Revenue would submit that the entire land admeasuring 320 square yards is surrounded by compound wall and it is in the possession of the Government with a Sign Board. Furthermore, the LGOP No.164/2017 (old LGOP No.38 of 2012) filed by the respondent No.4 is still pending.

6. In view of the facts and circumstances of the case, there is a serious dispute with regard to the lawful title and possession of the petitioner over the subject land admeasuring 320 square yards situated at Al-Hamra colony, Shaikpet, Hyderabad. When there is a serious dispute with regard to the title and possession of the subject land, this Court while exercising the power under Article 226 of the Constitution of India cannot adjudicate and determine the same. It is appropriate to state that if, in a petition filed under Article 226 of the Constitution of India, complicated questions of fact which require a regular and full-fledged trial are involved, it is but prudent that the Court should refrain from entertaining such petition and relegate the party to the normal remedy to obtain redress in a suit. Similar

circumstances arose in this Writ Petition. Therefore, no relief as sought by the petitioner can be granted in this petition. The writ petition is devoid of merit and liable to be dismissed. However, the petitioner is at liberty to agitate the contentions raised before this Court in the pending LGOP No.164/2017, in accordance with law.

7. With the above observations, this Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

SD/- N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. One CC to Sri. Abdul Rahim, Advocate [OPUC]
2. Two CCs to GP for Revenue, High Court for the State of Telangana. [OUT]
3. Two C.D. Copies

Prk



HIGH COURT

DATED:02/12/2020

ORDER

WP.No.10327 of 2019



Dismissing the WP.
without costs.

SSV
5 copies
Dt 23/12/2020