

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition No.25291 of 2019

ORDER:

The present writ petition is filed to declare the action of respondents 2 to 4-police authorities in not providing police aid for implementation of injunction order granted in favour of the petitioner in IA No.581 of 2019 in OS No.194 of 2019 dated 17.09.219/01.10.2019 passed by the I Additional Junior Civil Judge-cum-XV Additional Metropolitan Magistrate, Cyberabad at Rajendranagar, restraining the respondents 5 to 9 from interfering with the peaceful possession and enjoyment of the petitioner's property i.e., land admeasuring 1560 square yards in Survey No.93/A situated at Mailardevpally village, GHMC Rajendranagar Circle, Ranga Reddy District, as being illegal, arbitrary and unjustified.

2. Counter affidavit and additional counter affidavit have been filed by the 4th respondent-Station House Officer, Mailardevpally Police Station. The learned Assistant Government Pleader for Home on the basis of the counter affidavit submits that the 4th respondent is only complying with the interim orders of this Court by extending police aid and is no way interfering with the performance of daily poojas at the temple, except maintaining law and order at the site.

3. Counter affidavit along with vacate stay petition in the matter has been filed by 5th respondent on behalf of respondents 5 to 9. The learned counsel appearing for the respondents 5 to 9 submits that the respondents are no way connected with the land of the petitioner, which is claimed to be situated in Survey No.93/A of Mailardevpally village. The petitioner on the strength of the interim order passed by this Court in IA No.1 of 2019 in this writ petition is seeking to interfere with the possession of the temple land in Survey No.1 of Pallicheruvu village and with the said police aid is interfering with the performance of daily poojas at the temple and sought for vacating the interim order passed by this Court in IA No.1 of 2019.

4. The brief facts of the case are that the petitioner claiming to have purchased open land admeasuring 1560 square yards, vide document No.6211 of 2015, dated 11.08.2015 in Survey No.93/A of Mailardevpally village, has laid a suit in O.S.No.984 of 2019 before the I Additional Junior Civil Judge-XV Metropolitan Magistrate, Cyberabad at Rajendranagar, seeking a perpetual injunction against the defendants 1 to 9 named in the suit from interfering with the peaceful vacant possession and enjoyment of the above mentioned petitioner's property.

5. The petitioner had initially obtained ad-interim injunction on 17.09.2019 in I.A.No.581 of 2019 in O.S.No.984

of 2019 and the said order upon service of notices on the defendants was extended on 01.10.2019 till 19.11.2019, which it is claimed having been extended subsequently. On the strength of the above mentioned order obtained in IA No.581 of 2019, the petitioner has approached the 4th respondent on 29.09.2019 complaining that people named in the said complaint have entered his property and beat some of the labourers working resulting in injuries and sought for appropriate action being taken against the persons named in the said complaint and also sought for protection to his person and property. As the official respondents did not extend necessary protection to his life and property, the present writ petition is filed by the petitioner questioning the inaction of the respondent police authorities in protecting the life of the petitioner and by I.A.No.1 of 2019 sought for providing police protection for implementation of the injunction order granted in favour of the petitioner in IA No.581 of 2019 in OS No.194 of 2019.

6. This Court on 18.11.2019 while ordering notice to the unofficial respondents 5 to 9 granted interim relief to the petitioner in I.A.No.1 of 2019, whereby the respondents 2 to 4 were directed to provide police protection/aid for implementation of the injunction order granted in I.A.No.581 of 2019 in O.S.No.194 of 2019. Upon service of notice on the respondents 5 to 9 in the present writ petition, the respondents approached this Court and filed IA No.2 of 2019

and sought for vacating the interim order granted by this Court and also dismissal of the writ petition on the ground that the petitioner has approached this Court by suppressing the material facts and also having regard to the fact that the land that is being claimed by the petitioner, as per registered document is in Survey No.93/A of Mailardevpally village, while the land to which petitioner is staking claim physically falls in Survey No.1 of Pallicheruvu village, which is clearly a different place.

7. Heard Sri Swaroop Oorilla, learned counsel appearing for the petitioner and the Assistant Government Pleader for Home appearing for the official respondents 1 to 4 and Sri K.S. Murthy, learned counsel appearing for the unofficial respondents 5 to 9.

8. Having given due consideration to the rival submissions, it is to be seen that the issue involved in the writ petition relates to the identification of the petitioner's land, which is stated to be in Survey No.93/A of Mailardevpally village.

9. The lis between the parties with regard to the claim and counter claim in respect of the land was a matter of consideration before this Court on an earlier occasion in Writ Petition No.6441 of 2019, which was instituted by the 5th respondent herein questioning the inaction of the respondents 2 and 3 therein viz., District Collector, Ranga

Reddy and Tahsildar, Rajendranagar Mandal, in not conducting the survey of land to fix the boundaries of temple land situated in Survey No.1 at Pallecheruvu, Mailardevpally Village, Rajendranagar Mandal, as being illegal, arbitrary and unconstitutional. This Court by its order dated 27.03.2019 directed the Tahsildar, Rajendranagar Mandal, to take appropriate action on the request of the petitioner therein, made vide petition dated 16.03.2019, within a period of eight weeks from the date of receipt of a copy the said order. Further, this Court also directed the Station House Officer, Mailardevpally Police Station to ensure that *status quo* to be maintained as regards the nature of the subject land till such exercise is completed.

10. It is seen that even before the petitioner has approached the Civil Court by filing the above mentioned suit, this Court directed that survey to be conducted to identify the temple land of the 5th respondent herein in Survey No.1 of Pallecheruvu village. It is brought to the notice of this Court that pursuant to the direction issued by this Court in Writ Petition No.6441 of 2019, the Tahsildar, Rajendranagar Mandal issued notices informing that survey for fixing the boundaries of land in Survey No.93 of Mailardevpally Village and Survey No.1 of Pallecheruvu village would be conducted on 01.06.2019. Thereafter by another notice, the said date was re-fixed as 20.07.2019. It appears that the Mandal Surveyor by survey notice in File No.D/169/2019, dated

11.10.2019 informed the parties noted therein about the proposed survey to be held on 16.10.2019 at 10.30 a.m. for fixing the boundary stones in respect of Survey No.1 of Pallicheruvu village and Survey No.93 of Mailardevpally village.

11. It is also seen from the said notice issued, that a copy of the same has been served on the petitioner also. On the said date, after conducting survey based on the records produced by the authorities and with the help of teepans, the boundaries in respect of survey Nos.1 and 93 have been determined and the boundary stones have been fixed thereon as noted in the panchnama. Along with the panchnama, the authorities have also prepared the location sketch of Survey No.1 of Pallicheruvu village and Survey No.93 of Mailardevpally village, forming part of the panchnama drawn up on the said date. From the perusal of the said panchnama drawn up, along with the map annexed thereto, it is evident that the land that is being claimed by the petitioner in Survey No.93/A, is actually falling within the Survey No.1 of Pallicheruvu village wherein the 5th respondent temple exists.

12. Though the petitioner claims that his land in Survey No.93/A is the land which is also being claimed by the 5th respondent temple, having regard to the survey held on 16.09.2019, notice of which was also given to the petitioner, where at panchnama was drawn up fixing the boundaries in

Survey No.1 of Pallicheruvu and Survey No.93/A of Mailardevpally villages, and from the location map affixing to the panchnama, *prima facie* it is clear that the land which the petitioner is claiming as situated in Survey No.93/A of Mailardevpally is falling in Survey No.1 of Pallicheruvu of the 5th respondent temple, which has been marked in the survey location map. Thus, as seen from the panchnama drawn up and the plan, the land which is claimed by the petitioner in Survey No.93/A is unidentified and the petitioner is laying a claim in respect of the land in Survey No.1 of Pallicheruvu village.

13. Thus, having regard to the above, since the identification of the land of the petitioner in Survey No.93/A itself has not been established, the petitioner cannot seek for police aid for implementation of the injunction order in IA No.581 of 2019 in OS No.194 of 2019 unless and until the petitioner takes steps to get the petitioner's land identified in Survey No.93/A by approaching the concerned authorities.

14. The learned counsel for the petitioner would submit that the authorities have not passed an order under Section 10 of the Telangana Survey and Boundaries Act, 1923, which would enable the petitioner to file an appeal there against, cannot be considered as a ground for extending police aid particularly when the identification of the land of the petitioner in Survey No.93/A itself is in question.

15. The learned counsel representing the unofficial respondents 5 to 9 submits that the respondents would maintain *status quo* and would not take up any activities at the site including constructions either of permanent or temporary nature, except performing daily poojas to the deity at the temple and carrying on other religious activities at the site.

16. Accordingly, the interim order dated 18.11.2019 in IA No.1 of 2019 in W.P. No. 25291 of 2019 directing the 4th respondent to extend the police aid to the petitioner for implementation of the injunction order in IA No.581 of 2019 in OS No.194 of 2019 is hereby vacated.

17. Having regard to the above, this Court is of the view that the direction given by this Court to the 4th respondent-Station House Officer, Mailardevpally Police Station in Writ Petition No. 6441 of 2019, to ensure maintenance of *status quo* as it subsisted prior to this Court passing the order dated 18.11.2019 is to be restored and continued.

18. Since, the present writ petition has been filed seeking police protection for implementation of the interim order of the Trial Court and this Court having vacated the order extending police aid as detailed above, no further cause in the writ petition survives for consideration by this court.

The writ petition is accordingly disposed of, subject to the above observations and directions.

19. As a sequel thereto, Miscellaneous Applications, if any, pending in this writ petition shall stand closed.

T. VINOD KUMAR, J

Date: 10.01.2020
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