

HON'BLE SRI JUSTICE P NAVEEN RAO

WRIT PETITION NOS.39279 OF 2017 AND 6761 OF 2018

DATE: 10.02.2020

W.P.No.39279 OF 2017:

Between :

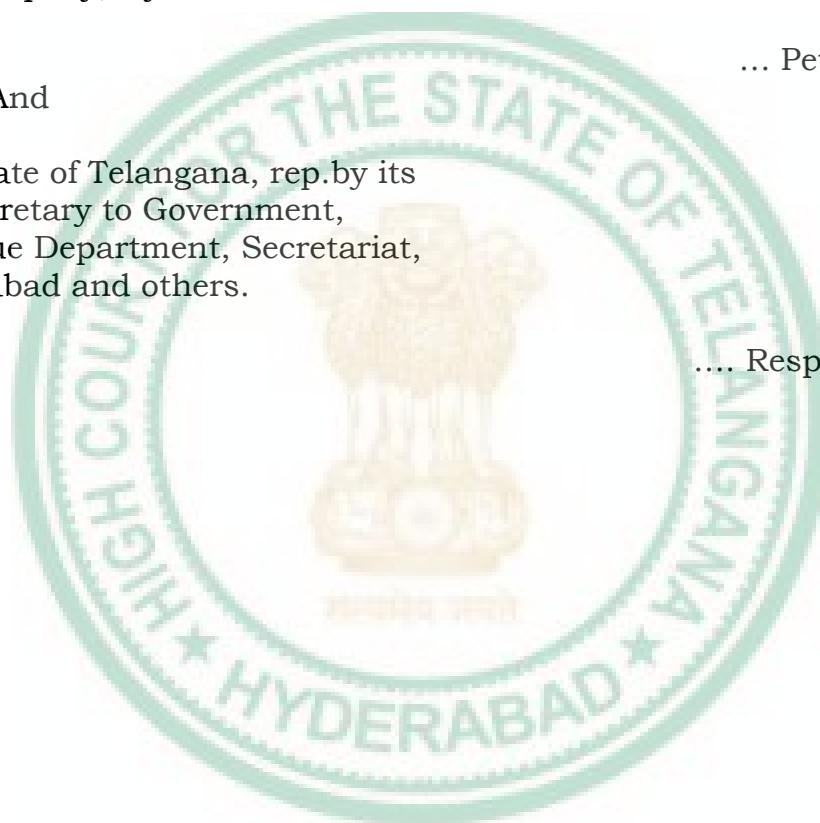
Boorla Amarnath s/o. B.Kanthaiah,
Aged about 48 years,
r/o. H.no.1-8-519/10/1-7,
Flat No.303, Poorna Gayathri Residency,
Chikkadpally, Hyderabad and others.

... Petitioners

And

The State of Telangana, rep.by its
Prl.Secretary to Government,
Revenue Department, Secretariat,
Hyderabad and others.

.... Respondents



This Court made the following:

HON'BLE SRI JUSTICE P NAVEEN RAO

WRIT PETITION NOS.39279 OF 2017 AND 6761 OF 2018

COMMON ORDER:

In both writ petitions the challenge is against same proceedings. Petitioners 1 and 2 in W.P.No.39279 of 2017 are respondents 22 and 17 respectively in W.P.No.6761 of 2018. Petitioner in W.P.No.6761 of 2018 is respondent no.5 in W.P.No.39279 of 2017. Respondents 6 & 7 in W.P.No.39279 of 2017 are respondents 7 & 8 in W.P.No.6761 of 2018. The issue in both writ petitions is conducting survey and proposing to undertake demarcation of land in Sy.Nos.160 and 161 of Hydernagar village. In view thereof, these writ petitions are disposed by this common order. For convenience, parties are referred to as arrayed in W.P.No.39279 of 2017.

W.P.No.39279 of 2017:

2. In W.P.No.39279 of 2017, there are three petitioners. According to petitioners, petitioners 1 and 2 claim to be absolute owners and in possession of house bearing No.16-2-100/35 in Plot Nos.35 and 878 and the 3rd petitioner was the developer of plot nos.192 and 193. These plots form part of layout made on land in Sy.Nos.148 to 155 of Hydernagar village formed by the Gopal Nagar Co-operative House Building Society Limited. Petitioners trace history of flow of title. According to petitioners, respondents 6 & 7 filed application dated 24.05.2014 to conduct survey of lands in Sy.Nos.160 and 161. Based on such request, survey was conducted behind the back of the petitioners and the Regional Deputy Director (RDD) submitted report dated 24.10.2014 (Ex.P3)

to the Commissioner of Survey Settlements and Land Records (for brevity hereinafter referred to as 'the Commissioner'). The IDPL Employees Co-operative House Building Society preferred appeal to the Joint Collector against said report of the RDD. The Joint Collector vide his orders dated 25.10.2017 (Ex.P2) directed the RDD to show the boundaries of Sy.Nos.160 and 161 in accordance with his report dated 24.10.2014 and in pursuance to the notice issued by the Assistant Director dated 13.03.2015. On 15.11.2017 the Assistant Director issued notice dated 15.11.2017 (Ex.P1) informing the date of demarcation/spot inspection as 22.11.2017. This, writ petition is instituted challenging the Exhibits P1 to P3 decisions/notices.

W.P.No.6761 of 2018:

3. Petitioner is IDPL Employees Co-operative Housing Society Limited. Petitioner claims to own Acs.65.00 guntas in Sy.No.163 of Hydernagar village, having acquired title to the property by virtue of final decree proceedings in C.S.No.14 of 1958. Society obtained orders to convert land for non-agricultural purposes. Society was served Survey Notice dated 20.06.2014 proposing to conduct survey of land in Sy.Nos.160 and 161 on a request made by A.Laxman Rao (7th respondent). Initially, survey was to be conducted on 27.6.2014, but later postponed to 2.7.2014. Petitioner claims to have opposed survey. RDD submitted his report dated 24.10.2014 (Annexure P2) to the Commissioner. While so, on a common application made by 7th and 8th respondents, the Assistant Director of Survey and Land Records (Assistant Director) issued notice on 13.02.2015 (3.3.2015) proposing to demarcate

land in Sy.Nos.160 and 161. On 11.03.2015 petitioner filed appeal before the Commissioner, but Commissioner by his order dated 18.03.2015 while observing that petitioner should avail remedy of appeal before Joint Collector stayed further action on the notice dated 03.03.2015 (Annexure P12). Accordingly, appeal was preferred before the Joint Collector. Simultaneously, appeal was also preferred against report of RDD dated 24.10.2014. In view of filing appeal before the Joint Collector against notice dated 03.03.2015, the Commissioner closed the appeal filed before him, by continuing earlier interim order till disposal of appeal by Joint Collector, vide his order dated 06.10.2015 (Annexure P15). The Joint Collector passed final orders in the appeal on 25.10.2017 (Annexure P1). On 15.11.2017, the Assistant Director issued notice informing his decision to fix boundaries of land in Sy.Nos.160 and 161 on 22.11.2017 (Annexure P3). In this writ petition, petitioner challenges the decisions/notices filed as Annexures P1 to P3.

4. Heard learned counsel for respective parties.

5.1. According to learned counsel for 5th respondent, respondents 6 and 7 filed application to 3rd respondent on 07.12.1999 to conduct survey. The 3rd respondent conducted survey and passed orders. The orders of 3rd respondent were challenged before the Commissioner. The Commissioner vide his order dated 10.07.2001 found fault with RDD directly entertaining application and conducting survey which exercise ought to be undertaken by the Mandal Surveyor. He ordered the appellants and respondents to file application before primary authority for survey and

demarcation. No application was filed before initial authority, kept quite for 14 years and the 6th respondent directly went before the Commissioner on 24.05.2014 praying to order to conduct survey of land in Sy.Nos.148, 149, 159, 160, 161 and 162 and to re-fix boundaries of his land in Sy.No.160 and surrounding survey numbers. The Commissioner endorsed it to RDD asking him to conduct survey. He would further submit that though application to conduct survey was made only by 6th respondent, another application made by 7th respondent was also entertained and directions were issued to conduct survey. This procedure was also illegal. As per the directions of the Commissioner, RDD conducted survey and submitted his report dated 24.10.2014.

6.2. He would submit that the Commissioner has issued series of orders on various aspects of processing applications to conduct survey. He would submit, the action of Commissioner in entertaining application to conduct survey and directing RDD to conduct survey is contrary to his earlier decision dated 10.07.2001 and directions issued from time to time, entire exercise is illegal, smacks of arbitrary exercise of power and void *ab initio*.

6.3. According to learned counsel, the claim of ownership by respondents 6 and 7 is based on unregistered sale deed dated 27.12.1970. As they never became owners, their very claim to conduct survey is not valid. Further, it is not a valid document. It does not disclose boundaries and based on false claim survey could not have been conducted.

6.4. Further, there is inordinate delay and laches to request to conduct survey and to demarcate even assuming that title was

validly passed on to respondents 6 & 7. The unregistered sale deed was of the year 1970, first time request to conduct survey was made in the year 1999 and a fresh request again after 14 years. Thus, the request to conduct survey ought to have been rejected on this ground alone.

7.1. Learned counsel for petitioners submitted that in the year 1989 survey was conducted and therefore there cannot be a survey again. He would submit that respondents 6 and 7 filed O.S.Nos.493 and 494 of 2014 pending in the Court of Principal District Judge at Sangareddy to grant decree of permanent injunction and the Gopal Nagar Society is arrayed as defendant. The survey request was made only to gather evidence in the suits and was not a bonafide request.

7.2. According to learned counsel the survey report dated 04.10.2014 is contrary to earlier tippan survey.

7.3. He would submit that while making application to conduct survey respondents 6 and 7 did not disclose filing of suit and earlier orders of the Commissioner. The Commissioner erred in not looking into his own record to find out his orders dated 10.07.2001 and contrary to his own decision concerning the same survey numbers, he could not have ordered fresh survey.

7.4. He would submit that there are serious boundary disputes and such disputes cannot be resolved by conducting survey. Respondents 6 and 7 having filed suits, nothing prevented them from filing applications to conduct survey. In support of this contention, learned counsel placed reliance on Division Bench

judgment in the case of **T.Praveena and another Vs. District Collector, Hyderabad and others**¹. He would therefore submit that the entire exercise smacks of arbitrariness.

8.1. Learned counsel Sri Vedula Srinivas for respondent No. 6 would submit that they are owners of land in Sy.No.160 (6th respondent) and 161 (7th respondent). There are two Housing Societies - IDPL Society and Gopal Nagar Society. IDPL Society land is in Sy.No.163 and Gopal Nagar Society land is in Sy.Nos.148 to 155 and thus these societies are no way concerned with land of respondents 6 & 7 and have no manner of right to oppose their claim to conduct survey.

8.2. He would further submit that administrative instructions relied by petitioners and 5th respondent are not supported by law, have no legal sanctity and cannot be relied upon to nullify survey conducted by RDD. He would further submit that Commissioner as Head of the Department (HOD) is competent to issue directions to his subordinates. As respondents 6 & 7 submitted representation to conduct survey and demarcate, the same was forwarded to RDD to conduct survey. Such directions are within the powers of the Commissioner and no illegality was committed in asking RDD to conduct survey.

8.3. He would further submit that by conducting survey no prejudice is caused to petitioners and 5th respondent. Conducting survey only identifies the land belonging to various persons and if there is any encroachment or overlapping, the affected parties can contest the claims in appropriate proceedings. On the principle of

¹ 2002 (6) ALT 112 (DB)

prejudice, reliance is placed on the decision of Supreme Court in **State Bank of Patiala and others Vs. S.K.Sharma² (paragraph 33).**

8.4. He further submitted that in a given circumstance, appellate authority can act as original authority and an order of appellate authority cannot be said as vitiated on that ground. Aggrieved person has remedy of further appeal against decision of RDD and petitioners in both writ petitions availed appeal remedies against earlier survey report of RDD where under the Commissioner passed orders on 10.7.2001. Therefore, petitioners and 5th respondent ought to have availed the remedy of appeal. That being an efficacious remedy, writ petition is not maintainable.

8.5. He would submit that petitioners being individual plot owners, have not shown how their plots are affected by survey report.

8.6. He would further submit that unless comprehensive survey is conducted covering adjacent survey numbers also the land in survey number 160 cannot be identified.

9.1. Mr Vijaysen Reddy would submit that request made was to conduct comprehensive survey and conducting a comprehensive survey would bring out correct extent of land and would resolve long pending litigation. It would cause no prejudice to any one. He would submit that the report of RDD would clearly point out claims of parties are contrary to actual location of land and extent

² (1996) 3 SCC 364

of land available in various survey numbers and, therefore, defends the decisions of the Commissioner.

9.2. He would submit that mere conducting of survey would not result in acquiring new right in a property and therefore petitioners and 5th respondent cannot oppose conducting of survey. He would submit that Tri-junction now identified in the survey tallies with the village map.

10.1. In reply, learned counsel for 5th respondent would submit that out of land held by Mr. Laxman Rao to an extent of Acs.8.30 guntas in Sy.No.160, Acs.3.30 guntas was declared as ceiling surplus land and he sold Ac.5.00 and thus he had no land left in survey No.160. When he does not have land he cannot apply to conduct survey. He would further submit that as can be seen from schedule appended to sale deed dated 9.6.1999, (Exhibit P30 in W.P.No.6761 of 2018) retainable land under 'The Telangana Land Reforms (Ceiling on Agricultural Holdings) Act, 1973' (Act No.1 of 1973), is shown as ceiling surplus land, which is a fraudulent claim.

10.2. He would submit that Mr. Laxman Rao created a fraudulent document as evident from sketch at page 49 of writ petition paper book. By referring to sketch at page 49 and report dated 23.2.2000 and learned counsel pointed out that, firstly, the triangular point of junction of three villages was shown as abutting Sy.No.163 in the year 2000 survey, but now it is shifted to survey number 162; and secondly, the report at pages 284 and 285 would show that tippans were available whereas it is now held that tippans are not available. In view of these glaring irregularities

directly seeking to affect land of 5th respondent, it cannot be said that no prejudice would be caused.

10.3. Availability of remedy of appeal is no ground to dismiss the writ petition, when illegalities are glaring and that in view of orders dated 10.7.2001 of the Commissioner, the entire survey exercise is *ex facie* illegal and void *ab initio*. There has to be finality to an issue and an issue cannot be reopened again and after long time.

10.4. He would further submit that objections filed were not considered.

11. Learned counsel for petitioners would submit that when there is serious boundary dispute, as held in **District Collector, Ranga Reddy District and another Vs. G Dayakar and others**³ only civil law remedy has to be availed. He would further submit that there cannot be proper survey as several buildings are constructed.

12. During the course of arguments, all the learned counsel have submitted that as of now the issue is confined to validity of conducting survey by RDD.

13. Thus, the issue for consideration is whether the exercise undertaken by RDD to conduct survey and submit report to the Commissioner, is justified and sustainable. If it is held valid, petitioners and 5th respondent may have to avail remedy of further appeal. All other issues/disputes are left open to parties to work out their remedies.

³ 2003 (1) ALD 59

14. To appreciate respective contentions on the issue of conducting survey by RDD, it is necessary to dwell into the scheme of survey.

15. The A.P Survey and Boundaries Act, 1973 deals with various aspects of survey of lands, assigning of survey numbers and demarcation of the lands belonging to different survey numbers, sub division of the existing survey numbers for various reasons including on account of acquisition of right to a partial extent of the land in the concerned survey numbers. A.P. Rights in Land and Pattadar Pass Books Act, 1971 is an Act made to consolidate and amend the law relating to rights in land and pattadar pass books. Rules 1989 were notified under the said Act, which regulate the procedure to deal with the rights acquired/ claimed to have been acquired under the Act, 1971. Act, 1971 provides for an official survey/measurement of the lands. Act, 1923 and Act, 1971 would only deal with conducting of survey on a notification issued by the State Government or by an officer or authorized to whom power is delegated by the State Government can order for survey on land which is Government land or where the boundary forming the common limit of the Government land and other than government land. In other words, there is no provision in Act, 1923 and Act, 1971 providing for conducting of survey of private lands. Thus, there is a vacuum created by statute with reference to conducting of survey of private lands. The circular instructions issued from time to time above attend to this void created by the concerned Acts and deal with conducting of survey requests by private persons on private lands.

16. Special Commissioner and Director, Survey Settlements and Land Records, of the then combined State of Andhra Pradesh, issued circular instructions vide Circular Rc.No.N1/6543/99 dated 25.7.2001 on demarcation of land on the petitions filed by private parties. After addressing the history of the procedure regarding conducting of survey, in paragraph-4 the Commissioner issued instructions for strict compliance by the Mandal Surveyors and other higher officers concerning survey and settlement. As per these instructions, demarcation of the private land should be entertained by the concerned Mandal Revenue Officer and Mandal Surveyor should conduct demarcation after seeking written approval from the Mandal Revenue Officer concerned. If aggrieved by the proceedings of the Mandal Surveyor, the remedy of First Appeal is provided to the Revenue Divisional Officer. On entertaining such appeal, he may order for demarcation by Deputy Inspector of Survey of his office. Against the said survey proceedings of the Deputy Inspector of Survey, remedy of Second Appeal is provided to the Assistant Director for demarcation by Inspector of Survey of District Maintenance Unit. Further appeal is provided to the Assistant Director of Survey and Land Records of the concerned District praying to conduct demarcation by himself. Paragraph 5 of the circular instructions mandates that along with his appeal petition, the appellant should enclose necessary documents, details of demarcation done by the lower functionary and remit the prescribed fee.

17. Paragraph 6 of the circular instructions provides 90 days time to prefer appeals. In paragraph 8 of the circular instructions, Commissioner imposes restriction on entertaining petitions directly

bye-passing the hierarchy of Survey officers and mandates that any application filed for conducting of the survey to any other officer other than Mandal Revenue Officer should be returned to the party, advising to approach the Mandal Revenue Officer. In paragraph 9, Commissioner directs scrupulous observance of the instructions issued and also informs them that violation of the instructions would invite disciplinary action as per A.P.C.S. (CCA) Rules, 1991.

18. On 13.7.2007 circular Rc.No.N1/1408/07 was issued by the Commissioner. As per paragraph-1 of the circular instructions, it is apparent that in Telangana Area applications submitted to the Assistant Directors and Mandal Revenue Officers for sub division of their lands are not entertained on the ground that there was no such practice. Referring to the practice of conducting survey in circular instructions No.F2/4304/63 dated 3.7.1963; Section 457(11) of the Hyderabad Land Revenue Act and para (1) of Chapter VIII of Hyderabad Survey & Settlement Manual and Rule 168 of Telangana Land Revenue Act, 1317 Fasli and Rules 6 and 15(c) of the Telangana Land Revenue Rules 1951 further instructions were issued directing to observe detailed procedure indicated therein for entertaining applications to conduct survey of private lands.

19. Responding to the representation submitted by A.P. Survey Employees Association on F-line petitions, further instructions were issued vide Circular Rc.No.N2/1741/2010 dated 18.5.2010. Apt to note that according to paragraph 6(b) of this circular, if F-line petitions/demarcation petitions received in respect of

portions of survey fields of agricultural lands, same should be converted by Tahsildar as application for sub division.

20. Having found in his field inspection that instructions issued vide circular instructions dated 25.7.2001 and 18.5.2010 were not being observed scrupulously, vide D.O.Rc.No.N1/4296/2012 dated 22.8.2012 further instructions were issued by the Commissioner. These instructions would disclose that every F-line demarcation application should be submitted to the concerned Tahsildar/ E-seva/Mee-seva centre; must be registered and registered application must be attended in seriatum and valid reasons be assigned for any deviation to the seriatum. Further, F-line application should accompany, photo copy of the pattadar pass book or copy of the latest adangal or pahani and if demarcation application was not supported by those documents, they should be rejected. Paragraph 5 of the instructions, deals with issuance of notices to various persons.

21. It is appropriate to note the directions issued in paragraph 8 of the said circular which reads as under:

“No petition/appeal shall be entertained herein after directly, by passing the hierarchy of survey officers. In case any petition is received through party or otherwise by any officer other than the Mandal Revenue Officer, it should be immediately returned to the party advising him to whom he has to approach.”

22. By these circular instructions and orders, referred to above, a robust and functional scheme encompassing all aspects of survey of land is put in place. It provides for hierarchy of Officers, who should deal with survey related issues and procedure to make applications/appeals is put in place. It is a self-contained code

and comprehensive. The procedures put in place are equally binding on the Commissioner.

23. In **Rachakonda Nagaiah vs. The Govt. of A.P. rep., by the District Collector, Nalgonda, Nalgonda District and three others**⁴, learned single Judge of this Court on analyzing the provisions of Act, 1923 and Act, 1971 observed that statute do not vest any right in a person to seek conducting of survey of private lands, therefore, no right is vested in a person to request to conduct survey. Learned single Judge, further observed that a mandamus cannot be issued without a legal right and without any statutory obligation cast upon the authority concerned to conduct survey, petitioner cannot claim as of right that mandamus should be issued to the authority to conduct survey of the lands. Learned single Judge observed that remedy for an individual to seek survey of land is to invoke the jurisdiction of the competent civil Court and seek declaration of title, and in case there is any dispute regarding boundaries, to file application seeking to have subject land surveyed and demarcated. Holding that petitioner therein had no statutory right to claim relief sought for, writ petition was dismissed. From the prayer sought and facts noted by the Court in the said decision, it appears, petitioner therein sought for survey of his patta land admeasuring Ac.0.20 guntas.

24. On appeal, taking note of the circular instructions and notices issued by the Deputy Inspector of Survey to conduct and demarcate the land, Division Bench observed that when circular instructions/guidelines/Board Standing Orders permit the revenue

⁴ 2013 (3) ALD 156

officials to conduct survey on application filed by private parties, the Deputy Inspector of Survey, ought to have conducted survey and fixed the boundaries. Observing so, order of the learned single Judge was set aside and writ appeal was allowed.

25. The view taken by the Division Bench was followed in W.A.No.1003 of 2013 and by learned single Judge in **Muramalla Padmavathi vs. State of Andhra Pradesh and Ors**⁵. In **Muramalla padamvathi** earlier decisions referred to above were noted and also the decision in **Khaja Naseeruddin Vs Commissioner, Survey, Settlement and Land Records, Hyderabad**⁶ and held that request made by a private person to conduct survey is valid and accordingly directions were issued.

26. Thus, settled position that emerges from the above discussion is that a request for conducting of survey by private person is permissible and the scheme/policy framework put in place on all aspects of survey of land is legal and valid and shall be binding on hierarchy of officers and persons seeking survey. The Commissioner is not exempted from such mandate.

27. In his orders dated 10.07.2001, having made scathing remarks against RDD, the Commissioner held that the RDD is not the primary authority to entertain applications for survey and sets aside the RDD reports and decisions and remands to Mandal Revenue Officer, Balanagar.

28. That being so, respondents 6 and 7 made applications directly to the Commissioner to conduct comprehensive survey.

⁵ 2016 (3) ALD 650

⁶ 2007(1)ALD191

For the reasons best known to him, strangely the Commissioner violated his own decisions and orders, entertained the applications and forwarded them to RDD directing him to conduct survey. No reasons are shown in directing RDD to conduct survey. No extraordinary circumstance is shown to deviate from the well laid down scheme and usurp power. If according to him RDD can directly conduct survey, his earlier decision dated 10.7.2001 becomes otiose. He cannot violate policy on establishing hierarchy of officers assigning each of them specific duties on various aspects of survey and issue directions to RDD to conduct survey. This action of the Commissioner is contrary to rudimentary principles of Administrative Law, amounts to arbitrary exercise of power and authority. It is strange to notice that RDD did not protest against such direction to conduct survey having regard to severe adverse comments made earlier and gleefully accepted and conducted survey. Further, though Commissioner directed to conduct survey in Sy.Nos.160 and 161, the RDD enlarged the scope of survey to other survey numbers also. Even more glaring is he submitted the report to the Commissioner.

29. There was extensive reliance on job chart of RDD communicated by the Commissioner to the RDD vide letter Rc.No.L1/9233/2003 dated 14.05.2004 to support the orders of commissioner and compliance thereof by the RDD. In clause-10, the RDD is required to do 'Any other work entrusted by CSSL&R'. Heavy reliance is placed on this term to contend that RDD is required to oblige what Commissioner directs. This cannot be read in isolation as other instructions clearly point out supervisory role and administrative/disciplinary control to RDD over subordinates.

Further, it has to be read inconsonance with the policy framework on survey related items, noted above. Therefore, I see no merit in the said assertion.

30. Further, earlier reports of RDD were set aside and Tahsildar was asked to conduct survey by order of Commissioner dated 10.7.2001. This decision of the Commissioner has become final. After more than 13 years, fresh application is made directly to the Commissioner. There is no whisper in the application about earlier order. There is no explanation on delay in making fresh application for survey having kept quiet for more than 13 years and no explanation as to why matter was not pursued with the Tahsildar. Thus, Commissioner could not have entertained such application without looking into the previous record.

31. It is fundamental principle to any issue that when there are rival claims and a possible impact on respective civil rights, there must be a finality to an issue and individuals cannot seek to re-agitate the same issue, having suffered a decision from competent authority. Concerning the very same survey numbers the decision of Commissioner dated 10.7.2001 having become final, it cannot be reopened after more than 13 years and adopt a course which was earlier frowned upon. Otherwise, there is no sanctity to such decisions. Further, by their conduct allowing the decision of Commissioner dated 10.7.2001 to become final, respondents 6 and 7 have allowed the right to crystallize in favour of petitioners and 5th respondent and not entitled to upset that position after long lapse of time.

32. In view of earlier orders of the Commissioner dated 10.7.2001 and the circular instructions on the issue, the action of RDD in conducting survey is *ex facie* illegal. Further, the RDD conducted survey as directed by the Commissioner and report was submitted to the Commissioner. Commissioner passed orders on 29.11.2014 accepting the report of RDD. The decision of Joint Collector is consequential to the order of the Commissioner dated 29.11.2014. Having regard to blatant illegality noticed herein above and decision of the Commissioner dated 29.11.2014, the petitioners and 5th respondent need not be relegated to remedy of further appeal against orders of Joint Collector before the very same Commissioner.

33. In his report, RDD points out availability of land in Sy.Nos.148 to 162, mismatch of boundaries and location of land in different survey numbers contrary to claims of individuals. Thus, the report does have serious ramifications. This report of RDD is accepted by the Commissioner vide his Memo No.F1/1514/2014 dated 29.11.2014. RDD widened the scope of survey to several survey numbers, though Commissioner orders only Sy.Nos.160 and 161. Paragraph-11 of RDD report reads as under:

“11. A perusal of the survey location sketch, it was found that an extent of Ac.2.29 gts (A) and Ac.4.30 gts (B) fall in Sy.Nos.160 & 161 respectively and the same land parcels are claimed by the Gopalnagar Housing Society layout as Sy.Nos.148 & 149 respectively. An extent of Ac.4.30 gts. (shown as (C) and extent of Ac.2.21 gts (shown as (D) is under enjoyment of Gopalnagar Housing Society layout and these land parcel come under Sy.Nos.150, 151, 152 & 154 though fall out of this land block as per village map due to plotting error in village map and the Kukatpally village boundary distinctly demarcated on ground.”

34. The Commissioner and the RDD failed to notice that request to conduct survey was not *bona fide*. There was clear suppression of earlier survey and decision of the Commissioner. Thus, equities are against respondents 6 and 7. The Commissioner could not have entertained such application, even assuming that such course is permissible.

35. It is also seen from material on record that respondents 6 & 7 filed O.S.Nos.493 and 494 of 2014 pending in the Court of Principal District Judge. Nothing prevented them from moving appropriate application to conduct survey. When there is inter-se dispute pending adjudication by competent Court, administrative authorities should hold their hands and allow persons to get their disputes resolved by the competent Court.

36. For all the aforesaid reasons, the Writ Petitions are allowed. However, it is made clear that there is no expression of opinion on merits and the aspects discussed herein above are only to test the validity of the order of Commissioner for Survey Settlements and Land Records directing RDD to conduct survey, RDD conducting survey and submitting his report, and consequential orders of the Commissioner and the Joint Collector. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 10.02.2020
TvK/Kkm

HON'BLE SRI JUSTICE P.NAVEEN RAO



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