

HONOURABLE SRI JUSTICE P.NAVEEN RAO
WRIT PETITION NOs.19182 & 19207 OF 2021

Date: 25.08.2021

WP No. 19182 of 2021:

Between:

Mekala Pradeep, s/o. Mekala Venkati,
Aged about 21 years, occu: Agriculture,
R/o. H.No.2-53/6, Thirmanpally village,
Indalwai Mandal, (Old Dichpally Mandal),
District Nizamabad.

.....Petitioner

and

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

.....Respondents

The Court made the following:

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COMMON ORDER:

Heard Mr. T.L.K. Sharma, learned counsel for petitioners, learned Assistant Government Pleader for Revenue and learned Government Pleader for Cooperation.

2. Petitioners claim that they are the son and the younger brother of M.Venkati, respectively, and Venkati was in possession and enjoyment of the agricultural land to an extent of Ac.0.07 guntas in Sy.No.807 of Thirmanpally village, Indalwai Mandal, Nizamabad District. Out of the said land, Ac.0.01 was given to road widening and thereafter Ac.0.06 guntas (equivalent to 726 square yards) of land remained with M.Venkati and family. To that extent, passbook was also issued to him. Said Venkati gifted the said land to the petitioners, each Ac.0.03 guntas (363 square yards). The petitioners since then became absolute owners and in possession of the respective extents of land.

3. Petitioners now allege that there is a dispute between two villagers with reference to the extent of land in Sy.No.806. On 20.02.2018, the Tahsildar clarified that Ac.0.10 guntas of land in Sy.No.806 of Indalwai village shivar was allotted to the Agricultural Department for construction of Primary Agricultural Cooperative Society Limited building. In the guise of constructing the building on the allotted land, respondents encroached into the land of the petitioners in Sy.No.807 and said action of the respondents is illegal.

4. Material on record disclose that petitioners individually instituted O.S.No.31 of 2019 and O.S.No.220 of 2018, respectively, in the Court of Principal Junior Civil Judge, Nizamabad, praying to grant permanent injunction restraining the defendants from interfering in possession and enjoyment of the land of the petitioners in Sy.No.807. The Chairman and the Secretary of Primary Agricultural Society Limited are arrayed as defendants in the above suits. While so, petitioners now seek direction against the respondents 2 to 7 from interfering in possession and enjoyment of their land in Sy.No.807.

5. From the material on record and the submissions made by the learned counsel for petitioners and the pleadings in the plaints filed in the above suits, it is apparent that there is *inter se* dispute on the extent of land claimed by the petitioners, vis-à-vis two adjacent villagers in survey numbers 806 & 807. Such a dispute can be resolved only on leading evidence, oral and documentary and identification of land in the respective survey numbers of the respective villages. Unless such evidence is led and finding is recorded by the competent Court on extent of land in respective survey numbers of the respective villages, the grievance of the petitioners cannot be resolved. In exercise of power of judicial review under Article 226 of the Constitution of India, the writ Court cannot go into the disputed questions of fact and the writ Court leaves it to the parties to agitate such disputes in a civil Court. Therefore, the reliefs sought for by the petitioners cannot be granted.

6. Writ Petitions are accordingly dismissed, leaving it open to the petitioners to prosecute pending suits as well as work out their remedies as available in law in asserting their right and title over the land claimed to have been owned by them in Sy.No.807 of Thirmanpally village, Indalwai Mandal of Nizamabad district. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

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