

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION No.37041 of 2022

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue for the respondents.

2. This Writ Petition is filed seeking a Writ of Mandamus to declare the action of the respondents in not conducting the survey and not fixing the boundary stones in respect of land to an extent of Ac.09-18 guntas in Sy.Nos.39/A and 40, situated at Singareni Village and Mandal, Khammam District, even after submitting the prescribed form, by duly paying the requisite amount by submitting Mee-seva application bearing No.DER022200794361, Dated 05.05.2022, as illegal and arbitrary.

3. The issue relating to conducting of survey and sub-division survey etc. are considered by this Court in W.P.No.32785 of 2022 by order dated 23.08.2022 and the relevant portion from the said order is extracted hereunder:-

“The Commissioner, Survey, Settlements and Land Records, Hyderabad, has issued various circulars from time to time in connection with conducting of survey, demarcations and sub-division of land and survey numbers and also disposal of

F-line petitions submitted by the parties concerned seeking survey and sub-division. The said circulars were issued keeping in view the Board Standing Orders-34A para 20(a) of the Board Standing Orders, which reads as under:-

“Applications from private parties to point out the boundaries of their fields in accordance with the survey records may be received by the Taluk Tahsildar. On receipt of the application with the deposit (prescribed fee), the Tahsildar should forward it to the Surveyor-Firka Deputy Surveyor who should, during his visit to the village, comply with the request. The Surveyor-Firka Deputy Surveyor should after pointing out the required boundary to the ryot, obtain his signature to that effect in the application and should himself (write) thereon that the boundary was pointed out by him in accordance with the measurements noted in the survey records.”

Paragraph No.6 (b) of the Rc.No.N2/1741/2010, dated 18.05.2010 Circular reads as under:-

“F-line petitions/demarcation petitions received in respect of portions of survey fields in agricultural lands should be converted by Tahsildars and applications for subdivision on payment of balance fee payable, if any and subdivision should be done in accordance with BSO 34-A para 13 and in respect of Telangana districts in accordance with CSSLR circular Rc.No.N1/1408/07 dt.13.07.2007.”

Thereafter, another Circular in Rc.No.N1/4296/2012 dated 22.08.2012 was issued duly issuing further instructions and guidelines for demarcation and survey of the sub-division survey numbers and instruction Nos.1 to 6 of the said Circular read as under:-

- “1. Every F-Line Demarcation application must be submitted to the concerned Tahsildar/E-Seva/Mee-Seva.
2. Every F-Line Demarcation application must be registered and such registered applications must be attended in

seriatum only and valid reasons for any deviation to the seriatum should be recorded.

3. (a) Every F-Line demarcation application shall be accompanied by a Xerox copy of pattadar passbook or a copy of the latest adangal/pahani.

(b) Demarcation application without such supportive or evidential document may be rejected.

4. If the applicant submits a self sworn affidavit declaring his rights/reputed ownership a possession along with the demarcation petition, the concerned Tahsildar may take an appropriate decision after thorough verification of records either to forward the same to the Surveyor or reject.

5. (a) Mandal Surveyor/Deputy Surveyor shall serve notices to the

(1) Applicant

(2) Adjacent land holders within the survey number and adjoining survey numbers

(3) Village Revenue Officer

(4) If the adjacent land belongs to local body/Government, notices shall be served on the concerned authority

(b) Prior to issue of notices or after issuing the notices, if any written objections of the adjacent land holders are received, demarcation cannot be denied unless it is a legally valid objection and approved by the Tahsildar.

(c) In general, after issuing the notices if any adjacent land holder absent for demarcation, naturally demarcation will be postponed.

In such cases, notices to be issued to all the concerned consequently two times and if any of them is absent for demarcation even after receipt of the notices, a final notice shall be issued intimating them that the demarcation will be done on the date mentioned in the final notice "even in their absence", as due opportunity was given.

6. If the demarcation application is for a part of undivided field such application may be converted into patta sub-division application and necessary statutory procedure to be followed for it by taking application from applicant.”

From a perusal of the above referred Circulars, it is clear that as and when F-line petitions for demarcation/sub-division are received in respect of portions of survey numbers in agricultural land, they are required to be converted as applications for sub-division by the Tahsildars on payment of balance fee payable, if any and sub-division shall be done in respect of the Telangana Districts in accordance with Circular in Rc.No.N1/1408/07, dated 13.07.2007, issued by the Commissioner of Survey, Settlement and Land Records. At this stage, it would be necessary to make note of some of the instructions issued in the said Circular dated 13.07.2007 which are extracted hereunder:

“5. Thereafter, the Mandal Surveyor will proceed for sub-division and prepare the sub-division record. The sub-division shall be done in accordance with the description of property sale deed in case of sales, partition deed in case of partition, mutual agreement in case of succession etc. However, the sub-division will be done only subject to the actual possession on ground tallying with the documents mentioned above provided that the Transferees name finds place in the Revenue accounts through proper mutation.

6. After preparation of the SDR, the Mandal Surveyor shall submit it to the Tahsildar who will verify whether it confirms to the documents and whether records are signed by all the concerned parties. Thereafter, Tahsildar should send the record to Assistant Director, Survey and Land Records Department with a proposal for sanction of Phodi.

7. Upon receipt of this proposal, the Assistant Director shall scrutinize the records and take further action for preparation and issue of supplementary sethwar and for incorporation of changes, if any.”

The Circular instructions issued by the Commissioner are very clear and absolutely there is no ambiguity and the obligation that is cast upon the respondent-Tahsildar is unequivocal and hence, any action on the part of the respondents to refuse to conduct survey and demarcation or sub-division of the part survey numbers pursuant to the request made by the persons concerned by submitting F-Line petitions is totally impermissible and illegal. It is only to avoid such ambiguous situation, the above referred circulars were issued categorically stating that it is the obligation on the part of the respondent-Tahsildar to take up such applications as and when the applications are received for survey and demarcation of part survey numbers and to complete the survey by duly collecting the required fees.”

4. In the light of the above, this Court is of the considered view that this Writ Petition can also be disposed of on the same lines.

5. In the light of the above, this Writ Petition is disposed of with the following directions:-

(i) The respondents authorities are directed to take up the application submitted by the petitioners for conducting survey/demarcation/sub-division of the subject land to an extent of Ac.09-18 guntas in Sy.Nos.39/A and 40, situated at Singareni Village and Mandal, Khammam District, by taking into consideration the F-line application bearing

No.DER022200794361, dated 05.05.2022, submitted by the petitioners;

(ii) In case, if the respondents are of the view that sub-division of survey numbers is required to be done and any further fees is required to be paid by the petitioner/s in terms of the circulars referred to above, the same shall be intimated to the petitioner/s and on receipt of such intimation from the respondent authorities, the petitioner/s shall pay such fees as may be required by the respondents;

(iii) On such payment of fees by the petitioner/s, the respondents authorities shall take further steps for taking up the survey as requested by the petitioner/s and conclude the same in accordance with law by putting all the concerned persons including the neighbours of the subject properties on notice; and

(iv) The entire exercise, as directed above, shall be completed within a period of two (2) months from the date of receipt of a copy of this order.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

MUMMINENI SUDHEER KUMAR, J

Date:27.09.2022

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THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

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