

THE HON'BLE SRI JUSTICE C.V. BHASKAR REDDY

Writ Petition No.16281 of 2022

ORDER:

This Writ Petition is filed by the petitioners under Article 226 of the Constitution of India seeking a *Writ of Mandamus* to declare the action of respondent Nos.2 to 7 in not stopping unauthorized constructions activities being taken up by respondent Nos.8 and 9 in respect of land Acs.1.02 gts. in Survey No.327/EE, situate at Ambedkar Nagar Colony, Kalluru Village and Mandal, Khammam District, despite a representation dated 07.03.2022 submitted by the petitioners and also grievance in Prajavani, dated 21.03.2022.

2. Heard Mr.K. Pavan Kumar, learned counsel for the petitioners; the learned Government Pleader for Panchayat Raj, for respondent Nos.1 to 4; the learned Government Pleader for Revenue, for respondent Nos.5 and 6; Mr. C. Kalyan Rao, learned Standing Counsel for 7th respondent-Gram Panchayat; and Mr. C.V.R. Rudra

Prasad, learned counsel for contesting respondent Nos.8 and 9.

3. It is the case of petitioners that they are absolute owners and possessors of land of extent Acs.1.02 gts. in Survey No.327/EE, situated at Ambedkar Nagar Colony, Kalluru Village and Mandal, Khammam District, and that it is their ancestral property; out of the said extent of Acs.1.02 gts., Acs.0.14 gts. belongs to 1st petitioner, another Acs.0.14 gts. belongs to 2nd petitioner, and remaining Acs.0.14 gts. belongs to their uncle, viz., Mr. L. Suryanarayana; the entire extent of Acs.1.02 gts. is private land; a civil dispute with regard to partition is pending between 2nd petitioner and his family members with respect to above land and other survey numbers, in O.S.No.4 of 2001 on the file of Principal District Judge, Khammam and connected A.S.No.485 of 2011 is also pending; but, there is no dispute as regards the extent of land of Acs.0.14 gts. belonging to 1st petitioner; meanwhile, the respondent Nos.8 and 9 are disputing the boundaries of the land in Survey No.327/EE and are proceeding with illegal constructions which constrained the petitioners to institute the present Writ Petition.

4. On 19.09.2022, this Court directed the 5th respondent to file survey report along with necessary records and also sketch map on the next date of hearing.

5. In compliance of the order dated 19.09.2022, a survey report dated 06.09.2022 has been filed before this Court stating that survey has been conducted and there are disputes with regard to identification and localization of the land forming part of Survey Nos.327 and 327/EE, and therefore, it is difficult to identify the constructions being carried out by respondent Nos.8 and 9 and also whether the constructions are forming part of the land, as claimed by the petitioner, or falls into the share of respondent Nos.8 and 9.

6. In reply, learned counsel for the petitioners prayed for time to file objections to the report of the Surveyor, dated 06.09.2022.

7. A perusal of the survey report, dated 06.09.2022, would go to show that there are serious *inter se* disputes with regard to identification, localization and classification and extent of boundaries relating to the aforesaid survey numbers. Therefore, this Court is of the view that issues

relating to disputed questions of fact, viz., extent of land, identification, localization cannot be adjudicated by this Court in Writ jurisdiction under Article 226 of the Constitution of India.

8. In view of above, the Writ Petition is disposed of by giving liberty to the petitioners to institute appropriate suit and take appropriate steps to redress their grievance by approaching the competent forum. It is made clear that this Court has not made any observations as regards merits of the case. No costs.

9. As a sequel, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

C.V. BHASKAR REDDY, J

Date : 17.02.2023
Ndr