HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY ,THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE K. SARATH

WRIT PETITION NO: 23965 OF 2015

Between:

B. Krishna Goud S/o Late Bhikshapathi, Occ Business, R/o H.No. 7-1-304/6/39, B.K.Guda, Adityanagar, Hyderabad, Telangana State.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Department of Revenue, Secretariat, Hyderabad.
2. The District Collector, Hyderabad District Nampally Station Road, Hyderabad.
3. The Tahsildar, Ameerpet, Mandal, Hyderabad at Ameerpet.
4. The Greater Hyderabad Municipal Corporation, Rep. by its Commissioner, B.R.K.R.Bhavan, Lower Tank Bund, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the highhanded action of the respondents by interfering with the property rights of the petitioner in forming part of Sy.No.58, Plot No.2, premises bearing Municipal No.8-4- 131/ 141/ 1 (Old) corresponding to 8-3-166./7/2/ IA (New) admeasuring about 193 sq. yards situated at Erragadda, Ameerpet Mandal, Hyderabad as arbitrary, illegal and in violation of Article 14, 19, 21 and 300-A of the Constitution of India and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioners property

I.A. NO: 1 OF 2015(WPMP. NO: 31064 OF 2015)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to restrain the respondents, their men and their subordinates from interfering with the peaceful possession and enjoyment of the petitioner's property forming part of Sy. No. 58, Plot No. 2, premises bearing Municipal No. 8-4-131/141/1 (Old) corresponding to 8-3-166/7/2/1A (New) admeasuring about 193 sq. yards situated at Erragadda, Ameerpet Mandal, Hyderabad, pending disposal of the above Writ petition.

Counsel for the Petitioner: SRI. DASARI S. V. V. S. V. PRASAD

Counsel for the Respondent Nos.. 1to3: AGP FOR REVENUE

Counsel for the Respondent No.4: SRI D. NARSIMULU, SC FOR GHMC

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE K.SARATH

WRIT PETITION No.23965 OF 2015

ORDER:

1. Heard learned Counsel for the petitioner, learned Assistant Government Pleader for Revenue for the respondents and perused the entire material on record.

2. Learned Counsel for the petitioner submits the petitioner had obtained the subject property from One Biridichand through a registered sale deed dated 21.06.1975, since then the petitioner is in possession and enjoyment of the property by paying necessary taxes. After purchase of the above said property, the Special Tahsildar, Non Agriculture Assessment, Hyderabad through his Revenue Inspector issued notice to the petitioner demanding payment of arrears of Nala for the period from 1975 to 1977-78, the same was paid to the Revenue Department through cheque. On 22.11.1976, the petitioner applied to the respondent No.4 for permission to raise shopping complex in the suit

premises but the same was refused by its letter dated 10.1.1977, not only that the respondent No.4 herein issued notices under Section 461 and 452 of the Hyderabad Municipal Corporation Act, 1955 (For short "the Act"). Aggrieved by the same, the petitioner filed the writ petition *vide* W.P.No.6535 of 1980 before this Court, the same was disposed on 07.04.1986 by quashing the notice issued by the respondent No.4 under Section 636 of the Act. Thereafter One M.A. Jabbar filed a suit in O.S.No.4861 of 1991 against the petitioner before the IV Assistant Judge, Hyderabad and the same was dismissed on 22.6.1998, thereafter, the petitioner instituted Rent Control Case *vide* R.C.NO.186 of 1994 against one M.A. Jabbar and R.C.No.187 of 1994 against Mr. Rahmat Ali before the III-Additional Rent Controller, Hyderabad seeking their eviction from the portion of the above property, subsequently, those petitions were allowed *vide* its order dated 24.7.1998, the same were challenged by M.A. Jabbar and Rahmat Ali *vide* its R.A.No.312/1998 and R.A.No.367/1998 before the Chief Judge, City Small

Causes Court, Hyderabad, which were also dismissed *vide* its order dated 13.8.1999. Aggrieved by the order in R.A.No.312/1998, one M.A. Jabbar preferred C.R.P.No.4638 of 1999 before this Court, the same was allowed *vide* its order dated 18.02.2000 and the matter was remitted back to the Chief Judge for disposal, thereafter, the Chief Judge dismissed the said Appeal *vide* dated 24.07.2000, in pursuance thereof, the petitioner filed Execution Petition *vide* E.P.No.50 of 2000, the same was allowed by delivering the possession.

3. Learned Counsel for the petitioner further submits that the respondent No.3 tried to dispossess the petitioner on 11.03.1999. Aggrieved by the same, the petitioner filed writ petition W.P.No.5620 of 1999 before this Court against the respondents herein. The respondents denying the title to the above property, as such the writ petition was dismissed on 03.09.1999. When the respondents have denied the petitioner's title and possession over the property, the petitioner filed suit

for declaration over the property forming part of Sy.No.58, Plot No.2, premises bearing Municipal No.8-4-131/141/1 (Old) corresponding to 8-3-166/7/2/1A (New) admeasuring about 193 sq. yards situated at Erragadda, Ameerpet Mandal, Hyderabad and consequential perpetual injunction against the respondent *vide* suit bearing O.S.No.12 of 2001 on the file of XI Additional Chief Judge, City Civil Court, at Hyderabad.

4. The learned Counsel for the petitioner further submits that the respondent No.3 herein filed a case under the A.P. Land Grabbing (Prohibition) Act, 1982 *vide* L.G.C.No.16 of 2001, the same was dismissed vide its order dt.19.11.2004. Learned Counsel for the petitioner states that the authorities have to act according to law by taking over the possession of the private properties by following the Land Acquisition Act and other laws existing on the land and requested to allow the writ petition.

5. Learned Assistant Government Pleader for Revenue for the respondent No.3 basing on counter submits that Bahalool Khan Guda is an Ex-Jagir Village under the estate of Dharam Karam Bahadur. The initial survey of the said village was conducted in the year 1336 Fasli (1927 A.D). As per the Sethwar of 1336F, (Survey Record), Survey No.58 was recorded to an extent of Ac.97.14 guntas. During the revision in Survey in 1348 Fasli (1939 A.D), new Sy.Nos 42, 43, 63, 65, 173, 174, 175, 176, 177, 178 and 186 were correlated to the old Survey No.58 with a total extent of Acs.97.14 guntas and the entire land in question in the said 12 revision survey numbers was recorded as land belonging to "Royal Air Force". After abolition of Jagirs under the Abolition Regulation, 1358 Fasli (1948 A.D.) the said village was merged with Diwani (Government) and entire property was vested with the Government, from the date of abolition of Jagirs. Thereafter, the Government conducted a new survey in the year, 1950 and the above 12 revision survey numbers were formed into single

Sy.No.127 with an extent of Acs.99.39 guntas and the said land was classified as "Sarkari Land" (Government Land) and the name of the Khatedar was recorded as "Royal Air Force" and the entire land was shown as "Potekharab" (uncultivable land) as per the original Sethwar of 1953 A.D. which is the final settlement record. Later a Town Survey was conducted during the years 1965 to 1972 as per the provisions of the A.P. Survey and Boundaries Act, 1923. A notification as required under Section 6 (1) of the said Act was issued calling for the interested parties to participate in the proposed Town Survey and the item 44 of the said notification was Bahalool Khan Guda village. A notice as required under section 9 (2) of the said Act was issued to the landholder and served the same on the then Tahsildar of Hyderabad Urban Taluk, in respect of the lands in question as it was the Government land. After conclusion of Town Survey, a final notification as required under section 13 of the said Act was published in Hyderabad District Gazette No.27, dated 22.4.1976.

During the Town Survey, Survey No.127 was correlated to various town survey numbers. Among those Town Survey Numbers the land in T.S.No.1, Block-B in Ward No.3 admeasuring 2,76,488 Sq.mts has been recorded as Government Poramboke and in possession Col.No.20 'G' Mental Hospital was recorded, out of this land an extent of 9500 Sq.Mts was allotted during the year 1998 for 'Rythu Bazar' and was functioning adjacent to the land bank, there is a vacant land on East-North corner to an extent of 273 Sq.Mts, which is separated by a small road, and leading to Zehra Gulshan Bagh.

6. Learned Assistant Government Pleader for the Revenue further submits that out of the land in T.S.No.65, Block 'A' in Ward No.3 which total extent is 416 Sq.mts equivalent to 497.54 Sq.Yards an extent of 112.35 Sq.Mts or 134.37 Sq.Yards approximately gone into road widening and an extent of 240.51 Sq.mts or 287.64 Sq.yds approximately is under further road widening and there would be a balance of land to an extent of 63.14 Sq.mts or 75.53 Sq.Yards only on

ground. As per the boundaries mentioned in the sale deed through which the petitioner is said to have purchased the plot should be on the main road, which is affected under road widening in two phases. In view of the same, the petitioner is making efforts to grab the vacant land by construction of wall. The field staff of the respondent No.3 resisted the illegal construction work on the Government land. Further, Civil suit is pending *vide* O.S.No.3345 of 2004 on the same subject matter and the petitioner also filed implead petition in pending suit before the VIII Senior Civil Judge, City Civil Court at Hyderabad. In view of same, requested to dismiss the writ petition.

7. After hearing both sides, this Court is of the considered view that the petitioner is questioning the highhanded action of the respondents in interfering with the possession of the property of the petitioner, forming part of Sy.No.58, Plot No.2, bearing Municipal No. 8-4-131/141/1 (Old), corresponding to 8-3-166/7/2/1A

(New), admeasuring to an extent of 193 Sq.Yards situated at Erragadda, Ameerpet Mandal, Hyderabad.

8. There is a prolonged dispute between the petitioner and the respondents with regard to the suit schedule property. In the earlier round of litigation in W.P.No.5620 of 1999 filed by the petitioners against the respondents herein, this Court dismissed the said writ petition on 03.09.1999 as the respondents were denying the title of the petitioner. Thereafter, the petitioner filed O.S.No.12 of 2001 on the file of XI Additional Chief Judge, City Civil Court (Fast Track Court), Hyderabad against the respondents for declaration of title and consequential injunction and the said suit was decreed on 25.02.2004 in favour of the petitioner. Against the said Judgment and Decree, the respondents did not file any appeal and thereby the said Decree and Judgment has become final. In view of declaration of title in respect of the subject property in favour of the petitioner by a competent Civil Court and the respondent authorities filed Land

Grabbing Case in LGC No.16/2001 and the same was dismissed on 19.11.2004. In view of the same, the respondents have no right to interfere with the possession of the petitioner over the subject property. If the respondents wants to acquire the subject property they have to follow the due process of law.

9. In view of the above finding, this Writ Petition is allowed directing the respondents not to interfere with the possession of the petitioner over the subject property forming part of Sy.No.58, Plot No.2, bearing Municipal No.8-4-131/141/1(Old), corresponding to 8-3-166/7/2/1A (New) admeasuring to an extent of 193 Sq.Yards situated at Erragadda, Arneerpet Mandal, Hyderabad in view of the Judgment and decree dated 25.02.2004 passed in O.S.No.12 of 2001 on the file of XI Additional Chief Judge, City Civil Court (FTC), Hyderabad. If the respondents wants to acquire the same, they have to follow the procedure as contemplated under the Right to Fair Compensation And Transparency

in Land Acquisition, Rehabilitation And Resettlement Act, 2013. No order as to costs.

10. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. No order as to costs.

SD/- A.V.S.PRASAD
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Department of Revenue, Secretariat, T.S.,Hyderabad.
2. The District Collector, Hyderabad District Nampally Station Road, Hyderabad.
3. The Tahsildar, Ameerpet, Mandal, Hyderabad at Ameerpet.
4. The Commisioner, Greater Hyderabad Municipal Corporation, B.R.K.R.Bhavan, Lower Tank Bund, Hyderabad.
5. One CC to SRI. DASARI S. V. V. S. V. PRASAD, Advocate [OPUC]
6. Two CCs to GP FOR REVENUE ,High Court for the State of Telangana at Hyderabad [OUT]
7. One CC to SRI. D. NARSIMULU, SC FOR GHMC [OPUC]
8. Two CD Copies

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BSR

HIGH COURT

DATED:30/12/2024



ORDER

WP.No.23965 of 2015

ALLOWING THE WRIT PETITION WITHOUT COSTS

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