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

FRIDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND

THE HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

WRIT PETITION NO: 37129 OF 2013

Between:

M.Bharathi (died) by LRs

1. M.S. Ramakrishna Raju, S/o. M.Satyanarayana Raju, Aged about 42 years, Occ Business resident of Plot No. 330, Jala Vayu Vihar, Kukatpally, Hyderabad.
2. M.Satyanarayana Raju., S/o. Late M.Narayana Raju, Aged about 76 years, resident of Plot No. 330, Jala Vayu Vihar, Kukatpally, Hyderabad.

.....PETITIONERS

AND

1. The Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad, Rep. by its Registrar.
2. M.N.B.Raju, S/o Sri Gandhi Raju, Occ Business, Resident of Flat No. 501, Sudha Towers Plot No. 124/125, Baghyanagar Housing Society Kukatpally, Hyderabad.
3. M.Navya Lakshmi, D/o. M.Naga Bhadri Raju Resident of Juvvalapalem, West Godavari District.
4. M.Nitya Gandhi, D/o. M.Naga Bhadri Raju Resident of Juvvalapalem, West Godavari District.
5. Pacchamatla Bheema Raju, S/o. P.Surapa Raju, Flat No.201, Trend Set Park View Apartments, Road No.3, Shanti Nagar, Hyderabad.
6. P.Ranga Raju,, S/o. Pacchamatla Bheema Raju, Flat No.201, Trend Set Park View Apartments, Road No.3, Shanti Nagar, Hyderabad.
7. A.Krishnam Raju,, S/o. A.Gopa Raju Flat No.201, Trend Set Park View Apartments, Road No.3, Shanti Nagar, Hyderabad.
8. Smt. A.Krishna Raju, W/o. A.Gopa Raju Flat No.201, Trend Set Park View Apartments, Road No.3, Shanti Nagar, Hyderabad.

9. The Commissioner, GHMC, Near Tankbund, Hyderabad.

10. The Government of Andhra Pradesh, Rep. by its Principal Secretary to Revenue, Secretariat, Hyderabad.

11. The Special Officer and Competent Authority, Urban Land Ceiling, Chandra Vihar, Mozamzahi Market, Mozamzahi Market, Hyderabad.

(Respondents 5 to 11 are not necessary parties).

.....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 of certiorari or any other appropriate writ or direction calling for the records relating to the order of the 1st respondent passed in LGC.No. 5/2004, dated 29.01.2010 in so far dismissing the case against the respondents 2 to 4 and set aside the samo.

Counsel for the Petitioners : SRI O.MANOHER REDDY

Counsel for the Respondent No.1 : --

Counsel for the Respondent Nos.2 & 3 : SRI VUPPALA RAMESH

Counsel for the Respondent Nos.4 to 11 : --

The Court made the following ORDER

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

WRIT PETITION No.37129 of 2013

ORDER: *(per Hon'ble Sri Justice Laxmi Narayana Alishetty)*

This Writ Petition is filed seeking to issue a writ of *Certiorari* calling for the records relating to the order, dated 29.01.2010, passed in L.G.C.No.5 of 2004, on the file of the Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad, (for brevity, hereinafter referred to as 'the Special Court') and to set aside the said order insofar as dismissing the case against respondent Nos.2 to 4.

2. The succinct facts of the case, which are necessary for disposal of this Writ Petition, are as follows:

2.1. One M.Bharathi, who is mother of petitioner No.1 and wife of petitioner No.2 herein, filed L.G.C.No.5 of 2004 before the Special Court, wherein it was stated that she is the absolute owner of the agricultural land measuring 0-38 guntas in Sy.No.110 and further to an extent of Ac.1- 30 ½ guntas in Sy.Nos.115, 116, and 118, totaling to Acs.2-28 guntas situated at Hydernagar Village, Balanagar Mandal, Ranga Reddy District, having purchased the

said land from one Golla Laxmaiah and others through a registered sale deed, dated 11.02.1998.

2.2. It was further stated that in pursuance of the said sale deed, she was inducted into vacant physical possession of the said land by her vendor, and subsequently, her name was mutated in the revenue records under the Andhra Pradesh Record of Rights in Land and Pattedar Pass Book Act, 1971 and she was also issued pattedar passbook for the said land.

2.3. As the things stood thus, respondent Nos.5 to 7 herein grabbed an extent of Ac.0.30.5 guntas in Sy.No.110 and the said respondents and their henchmen illegally and unauthorizedly raised a compound wall covering the said extent. Against the said acts, the original applicant-Bharathi filed a complaint before Kukatpally Police Station and she also got issued a notice to respondent Nos.5 to 7 through her lawyer, calling upon them to deliver back possession of the said extent of land, but there was no response from them.

2.4. It was further stated that respondent No.2 herein grabbed an extent of 196 square yards of the application schedule property. It was further stated that upon search in the Sub-Registrar's Office, she came to know that a registered gift deed was executed on

29.03.2006 in favour of respondent Nos.3 and 4 in respect of the said land and hence, the said respondents, who were unlawfully inducted into possession of the said property, were impleaded in the LGC and the applicant sought to declare the said respondents also as 'land grabbers' and to further declare her as the owner of the application schedule property and for *mesne* profits.

3. Before the Special Court, respondent No.2 herein filed counter denying the allegations made in the LGC and *inter alia* stated that he has not encroached any of the original applicant's lands; that he has no land in and around Sy.No.110 and as such, he has no necessity to grab the applicant's land; and that the original applicant, under a mistaken impression, has wrongly sought relief against him. It was further stated that he was unaware of the contents of the MRO's report and he has not been served with any notice either by the MRO or his sub-ordinates prior to the survey since he had no land in the said Survey numbers. It was further stated that the original applicant herself stated that there is a road, as per the MRO's report and prayed to dismiss the LGC.

4. Before the Special Court, on behalf of the original applicant, her husband was examined as P.W-1 and Exs.A-1 to A-6 were

marked. On behalf of the respondents, R.W-1 was examined and no documents were marked.

5. The Special Court, on due appreciation of oral and documentary evidence placed before it, allowed the application in part holding the original applicant as the owner of the applicant schedule property and declared respondent Nos.5 to 7 herein as 'land grabbers' in respect of an extent of Ac0.29 guntas. The Special Court, however, dismissed the LGC against the other respondents, i.e., respondent Nos.2 to 4 and 8 to 11.

6. Aggrieved by the orders passed by the Special Court in L.G.C. No.5 of 2004, insofar as not granting any relief against respondent Nos.2 to 4 herein, the present Writ Petition is filed.

7. Heard Sri S.V.Ramana, learned counsel, representing Sri O.Manoherr Reddy, learned counsel on record for the petitioners, Sri D.R.Rama Raju, learned counsel for respondent Nos.2 and 3, and learned Government Pleader for Revenue appearing for the official respondents. Perused the entire material available on record.

8. Learned counsel for the petitioners submitted that the burden lies on respondent Nos.2 to 4 to prove that they are not land grabbers, but the same was not discharged by them; that the

Special Court erred in dismissing the LGC insofar as the unofficial respondents, i.e., respondent Nos.2 to 4 herein, on the ground that the claim against the said respondents was not proved; and that the reasons assigned by the Special Court therefor are illegal, arbitrary and contrary to the provisions of the A.P. Land Grabbing (Prohibition) Act; and therefore, sought to set aside the impugned order insofar as respondent Nos.2 to 4 herein.

9. Per contra, learned counsel for respondent Nos.2 and 3 contended that the Special Court has categorically observed that the original applicant herself has no clarity as to whether there was road and that respondent Nos.2 and 3 are occupying the alleged road. He further contended that the Special Court has rightly appreciated the evidence and the entire material placed before it and rendered the impugned order by assigning cogent and convincing reasons, which warrants no interference by this Court.

10. No representation on behalf of the unofficial respondents.

11. In view of the above rival contentions, the following points arise for consideration in this Writ Petition:-

"1. Whether respondent Nos.2 to 4 herein are land grabbers?

2. Whether the impugned order of the Special Court insofar as dismissing the LGC against respondent Nos.2 to 4 is liable to be set aside?

Point No.1:

12. In the instant case, as narrated above, the original applicant claimed that respondent No.2 grabbed an extent of 196 square yards of the application schedule property and a road exists. In the same breath, the applicant stated that no road had been approved by the competent authority and that she was presuming the existence of such an approved road. Furthermore, respondent No.2, categorically denied occupying any land belonging to the original applicant. He specifically stated that he has been wrongly included as a party to the case, clarifying that his father's name is 'Siva Rama Raju' and not 'Gandhi Raju', as averred by the original claimant in the LGC and thereby, he claimed that he is a different person. The original claimant did not rebut this assertion of respondent No.5.

13. It is pertinent to note that the Mandal Revenue Officer submitted report, in which it is clearly mentioned that 1.5 guntas of land was encroached upon by respondent No.2 herein as house site.

14. Insofar as respondent Nos.3 and 4 are concerned, the case of the original claimant is that they are in possession of 196 square yards of land by virtue of a Gift deed executed by one D.Sunitha and I.Padmaja, who are said to be close relatives of respondent No.2. However, the Special Court in the impugned order observed that names of the said persons are not figured in the MRO's report. Except making such a stray observation in its order, by solely relying upon the non-disclosure of names of respondent Nos.3 and 4 herein in the MRO's report, the Special Court did not undertake the exercise or delve into the issue as to (1) whether respondent Nos.3 and 4 herein are related to respondent No.2, (2) as to how respondent Nos.3 and 4 are in possession of the said land, when it is the specific case of the original applicant that they are unlawfully inducted into possession of the said land.

15. Mere non-disclosure or non-mentioning of certain fact(s) in the report of MRO cannot be construed to the benefit of the alleged erring person. The Special Court was swayed away with the fact that the names of respondent Nos.3 and 4 are not figured in the MRO's report, ignoring the specific mention in the report that respondent No.2 encroached an extent of 1.5 guntas of land and therefore, the observation of the Special Court is contrary to the

report of the MRO and thus, the same is erroneous. When the applicant alleged that respondent Nos.2 and 3 are in unlawful possession of the land, it is for the said respondents to prove the contra, but, no such attempt was made by them. Therefore, this Court is of the considered view that the matter requires re-consideration and re-adjudication.

Issue No.2:-

16. In view of the foregoing reasons and discussion on issue No.1, this Writ Petition is disposed of and the matter is remanded to the District Court concerned, with a direction to re-examine, re-appreciate/re-determine and adjudicate the case afresh with regard to the claim of the petitioners herein and the rival title set up by respondent Nos.2 to 4 herein in respect of 196 square yards of land, after giving an opportunity of hearing and adducing further evidence, if any, to both the parties, in the light of report of the MRO that respondent No.2 herein has encroached land to an extent of 1.5 guntas, and dispose of the case, in accordance with law, as expeditiously as possible.

17. Pending Miscellaneous Applications, if any, shall stand closed. No costs.

SD/-S.MALLIKARJUNA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Commissioner, GHMC, Near Tankbund, Hyderabad.
2. The Principal Secretary to Revenue, Government of Andhra Pradesh, Secretariat, Hyderabad.
3. The Special Officer and Competent Authority, Urban Land Ceiling, Chandra Vihar, Mozamzahi Market, Mozamzahi Market, Hyderabad.
4. One CC to SRI O.MANOHER REDDY, Advocate [OPUC]
5. One CC to SRI VUPPALA RAMESH, Advocate [OPUC]
6. Two CD Copies

SA
BSK

HIGH COURT

DATED:20/12/2024



ORDER

WP.No.37129 of 2013

DISPSOING OF THE W.P

WITHOUT COSTS.

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20/1/25
8 Copies