
(2021) 08 TEL CK 0059
In the Telangana High Court
Case No : Writ Appeal No. 448, 449 Of 2010

Hyderabad Metropolitan Development Authority	APPELLANT
Vs	
M/S. Kakatiya Enclaves Pvt. Ltd.	RESPONDENT

Date of Decision : 24-08-2021

Acts Referred:

Andhra Pradesh Urban Areas (Development) Act, 1975 — Section 20, 20(1)

Citation : (2021) 08 TEL CK 0059

Hon'ble Judges : Hima Kohli, CJ;B. Vijaysen Reddy, J

Bench : Division Bench

Advocate : Y Rama Rao, M.V. Pratap Kumar

Final Decision : Disposed Of

Judgement

1. On 22.06.2021, the following detailed order was passed:-

1. The appellant/Hyderabad Metropolitan Development Authority (HMDA) is aggrieved by a common order dated 22.10.2008, passed

in W.P.Nos.7255 and 7698 of 2008 filed by the respondents No.1 to 4/writ petitioners, who had prayed for issuance of a writ of Mandamus

against the Revenue Authorities, the Police Department and private respondents therein of declaring their action for trying to dispossess

them from a parcel of land measuring Acs.11.37 guntas situated in Survey No.452/2 in Poppallaguda Village, Rajendranagar Mandal,

Ranga Reddy District, as arbitrary and illegal.

2. It was noted by the learned Single Judge in the impugned order that vide order dated 28.04.2008, an Advocate Commissioner had been

appointed to supervise the identification and survey of the land to the extent of Acs.15.37 guntas comprised in Survey No.452/2 for fixation

of boundaries. On going through the Report of the Assistant Director of Survey and Land Records, the learned Single Judge noticed that

the officer had effected subdivision of Survey No.452/2 to the extent of Acs.4.00 out of Acs.15.37 guntas in the subject survey number, on

the advise of the Advocate Commissioner, who pointed out when no such direction had been issued by the court, the learned Single Judge

held that the same is beyond the scope of the warrant. After recording that the parties to the writ petitions had accepted the survey to be

correct, none had raised any objection thereto and had agreed to the closure of the writ petitions, the survey Report of the Assistant

Director, Survey and Land Records to the extent of Acs.15.37 guntas in Survey No.452/2 and the fixation of the boundaries thereto was

accepted. However, the Report relating to the subdivision to the extent of Acs.4.00 from out of Acs.15.37 guntas was rejected and the court

made it clear that it had not adjudicated upon the title of the petitioners and the unofficial proposed respondents.

3. It is stated by Mr. J. Ramachandra Rao, learned Additional Advocate General appearing for the appellant/HMDA that the appellant was

not a party in the captioned petitions and nor was the order passed on 22.10.2008 served on it. In fact, copies of the impugned order and

other documents were served on the HMDA, when it was impleaded by the respondents No.1 to 4/writ petitioners as co-respondents in

W.P.No.2772 of 2010. Immediately upon obtaining certified copies of the impugned order and other relevant documents, HMDA was

advised to prefer the present appeals seeking leave to assail the impugned order, which application was duly allowed.

4. Learned Additional Advocate General states that the respondents No.1 to 4/writ petitioners had deliberately failed to implead HMDA as a

co-respondent in the writ petitions. Had HMDA been represented in the said proceedings, it would have pointed out to the court that the

Authority is actually the owner in possession of land measuring Acs.154.00 situated in Survey No.452/2, situated in the very same village

which the respondents No.1 to 4/writ petitioners claim to own. He submits that even the Assistant Director, Survey and Land Records, did

not issue any notice to the HMDA to remain present at the site when the survey of the land in Survey No.452/2 was conducted. As a result,

the appellant/HMDA did not get an opportunity to file any objections to the Report submitted in the writ proceedings. It is submitted that in

view of the irregular boundaries fixed at the instance of the respondents No.1 to 4/writ petitioners and their counsel and not by the Assistant

Director, an error has taken place in demarcating the land of the writ petitioners and the demarcation has resulted in encroachment on the

land owned by the appellant/HMDA that needs correction.

5. It is the stand of the appellant/HMDA that the land comprised in Survey No.452/1, to the extent of Acs.174.00 had been allocated by the

Government of Andhra Pradesh to the HMDA. Learned Additional Advocate General states that the contours of Survey No.452 are clearly

reflected in the location map filed at page No.59 of the paper book.

6. We have requested learned Additional Advocate General to draw our attention to the Notification issued by the Government in favour of

the appellant/HMDA placing the aforesaid tract of land at the disposal of the authority in terms of provisions of Section 20 of the Andhra

Pradesh Urban Areas (Development) Act, 1975, which was applicable on the date of the allocation stated to have been made in the year

2004.

7. Learned Additional Advocate General requests that his briefing counsel may be granted some time to file the relevant Notification issued

by the State of Andhra Pradesh in favour of the appellant/HMDA, for the perusal of the court.

8. The said document shall be filed well before the next date of hearing.

9. The respondents No.1 to 4/writ petitioners shall also place on record the documents of title of their predecessors-in-interest/vendors

starting from the year 1950, as it is stated by the said respondents that the subject land was owned and in possession of their vendors from

the year 1950 onwards. The said documents shall be filed before the next date of hearing.

10. The parties shall exchange the documents well before the next date of hearing.

11. List on 28.06.2021 at the end of the Board.â??

2. As can be gleaned from the above, learned Additional Advocate General appearing for the State Government was requested to draw the attention

of this court to the Notification issued by the Government in favour of the appellant/HMDA, wherein the subject land situated in Sy.No.452/1 in

Poppallaguda Village was placed at the disposal of the authority, in terms of Section 20 of the Andhra Pradesh Urban Areas (Development) Act, 1975

(for short, 'the Act'), the statute applicable on the date of the allocation/handing over of possession, in the year 2004.

3. On going through the documents filed by the appellant/HMDA vide Memo in USR.No.34470 of 2021, there appears a letter dated Nil.08.2004,

addressed by HMDA to the District Collector, Ranga Reddy, received on 2. 09.2004, stating inter alia that 'as per Section 20(1) of the A.P.U.A

(Dev) Act, 1975, the Government may by Notification and upon such terms and conditions as may be agreed upon by the Government and the

authority, place at the disposal of the authority all or any vacant lands belonging to or under the control of the Government situated in the development

area for the purpose of development in accordance with the provisions of the Act'.Citing the aforesaid statutory provision, the appellant/HMDA had

requested the revenue authorities to handover possession of the subject land in terms of the list already forwarded.

4. We have enquired from Mr. S. Niranjan Reddy, learned Senior Advocate as to whether any document has been filed by the appellant/HMDA,

which can demonstrate that a Notification was issued by the Government, placing the subject land at the disposal of the appellant/HMDA and

indicates the terms and conditions that were agreed upon. Learned Senior Advocate states that possession of the subject land was handed over by the

Revenue authority to the appellant/HMDA through a Panchanama executed on 20.12.2004 (at page 64 of the appeal paper book).

5. Mr. M.V.S. Suresh Kumar, learned Senior Advocate appearing for the respondents No.1 to 4/writ petitioners submits that possession has to go

hand in hand with the Notification and in the absence of a Notification, mere possession would not entitle the appellant/HMDA to claim allocation of

land in its favour and that too without any demarcation of the boundaries.

6. Learned counsel for the appellant/HMDA refers to the panchanama dated 20.12.2004 prepared in the presence of the Additional Mandal Revenue

Inspector, Rajendranagar, which mentions handing over of Acs.154.00 of land in Sy.No.452/1 and Acs.109.05 of land in Sy.No.454/1. The

panchanama has recorded in plain terms that the boundaries are not fixed for the above survey number lands and not shown to HUDA. After

calculations and deduction of lands unauthorized occupations the land about an extent of Ac.263.05 were handed over, it is true. The panchanama

concludes with the signatures of the panchas and the witnesses. It has been recorded on behalf of the Additional Mandal Revenue Inspector,

Rajendranagar that possession handed over by me, subject to confirmation of boundaries and encroachments. Similarly, the Deputy Tahsildar

(LD), HUDA has endorsed that possession taken over subject to confirmation of boundaries and eviction of encroachments, today i.e.

20.12.2004.

7. We have enquired from learned Senior Advocate appearing for the appellant/HMDA to confirm if the boundaries of the land, subject matter of

Sy.No.452/1, were subsequently confirmed in favour of HMDA. He submits on instructions that there is nothing available on record to demonstrate

that boundaries in respect of the subject land situated in Survey Nos.452/1 and 454/1 were fixed at a later date and requests that the appellant/HMDA

may be permitted to take appropriate steps for getting the boundaries demarcated.

8. In view of the submission made hereinabove, both the appeals are disposed of with liberty granted to the appellant/HMDA to approach the revenue

authorities for demarcation of the boundaries of land measuring Acs.154.00 in Sy.No.452/1 and Acs.109.05 in Sy.No.454/1.

9. Mr. S.Niranjan Reddy, learned Senior Advocate expresses an anxiety that in the event HMDA approaches the revenue authorities for conducting a

survey of the subject lands, the impugned order may act to its detriment.

10. The operative para of the impugned order dated 22.10.2008 reads as follows:-

In the circumstances, all the parties to the writ petition having accepted the survey to be correct, expressed no objection and agreed for

closure of the writ petitions with the following directions:

The survey report of the Assistant Director, Survey and Land Records, to the extent of surveying the land in an extent of Ac.15-37 guntas in

Sy.No.452/2 of Poppalaguda village, and fixation of boundaries thereto, is upheld. However, the report to the extent of effecting sub-

division in an extent of Ac.4-00 out of Ac.15-37 guntas, in Sy.No.452/2 of Poppalaguda village, stands rejected, and it shall not be acted

upon. It is made clear that this Court cannot be understood to have adjudicated the title of the petitioners and the unofficial proposed

implead respondent. No costs.â??.

11. We may note that the impugned order does not make any mention of Sy.No.452/1 and furthermore, the said order can only bind those

entities/persons, who were parties in the writ petition. Therefore, we do not see any reason for the apprehension expressed by learned counsel for the

appellant/HMDA that the impugned order is likely to come in the way of the appellant if they approach the revenue authorities for seeking

demarcation of the boundaries of the land allocated to HMDA, comprised in Sy.No.452/1.

12. The impugned order is affirmed. The present appeals are accordingly disposed of along with the pending applications, if any.