
(2022) 04 TEL CK 0101
In the Telangana High Court
Case No : Writ Petition No. 5203 Of 2022

Jabri Ghouse

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 29-04-2022

Acts Referred:

Constitution Of India, 1950 — Article 14, 19, 21, 300A

Citation : (2022) 04 TEL CK 0101

Hon'ble Judges : Mummineni Sudheer Kumar, J

Bench : Single Bench

Advocate : Prudhvi Raj Mudunuri

Final Decision : Dismissed

Judgement

1. This Writ Petition is filed seeking a Writ of Mandamus to declare the action of the respondents in issuing G.O.Ms.No.2 dated 18.01.2022 without following the land acquisition proceedings in Survey No.42 to an extent of Acs.3.00 gts out of Acs.5.00 gts situated at Naspur Village and Mandal, Mancherial District, as illegal, arbitrary, unjust, unreasonable and opposed to all canons of justice besides being violative of Fundamental and Constitutional Rights guaranteed under Articles 14, 19, 21 and 300-A of the Constitution of India.

2. Through the impugned G.O., the Government ordered for alienation of Government land to an extent of Acs.5.00 situated in Survey No.42 of Naspur Village and Mandal in favour of Judicial Department for construction of Court Complex at Mancherial District.

3. The case of the petitioner is that his father was the owner of the land admeasuring Acs.3.00 situated in Survey No.42/22 of Naspur Village and Mandal, Mancherial District, having acquired the same from Revenue Department vide Final Assignment Patta in Rc.No.A4/2612/61 dated 14.06.1961 under G.O.Ms.No.1406 dated 25.07.1958 read with G.O.Ms.No.1724 dated 26.03.1959. The petitioner claims to have succeeded to the said extent of land from his father

after his demise. The petitioner also claims to have been cultivating the said land and also constructed a house in part of the land and living in the said house with his family. It is also stated by the petitioner that when the fourth respondent herein tried to interfere with the possession of the petitioner over the said extent of Acs.3.00 gts, petitioner approached this Court and filed W.P.No.13593 of 2021 and the said Writ Petition is pending consideration before this Court. According to the petitioner, the impugned G.O. came to be issued allocating an extent of Acs.5.00 gts in favour of the Judicial Department for construction of Court Complex during the pendency of the said W.P.No.13593 of 2021 and without following the land acquisition process.

4. The writ petitioner, in support of his claim, has filed a Final Patta Certificate dated 14.06.1961 granted in favour of one Sri Syed Bin Salam in respect of land to an extent of Acs.3.00gts situated in Survey No.42 of Naspur Village, Luxettipet Mandal, Adilabad District. He also filed pahanis for the years 1980-81, 1993-94 and 1996-97, wherein the name of Sri Salam Bin Syed was mentioned as pattadar of the said extent of Acs.3.00 gts in Survey No.42/22. Further, petitioner also filed receipts standing in the name of Jabri Ghouse, S/o. Jabri Syeed, issued by the Naspur Gram Panchayat purported to be house tax receipts. In addition to the said documents, the petitioner also filed a 'no objection certificate' dated 19.08.2013 and house ownership certificate dated 07.02.2014 standing in the name of Jabri Ghouse, S/o. Jabri Sayeed.

5. The fourth respondent filed counter affidavit on behalf of all the respondents. It is the contention of the respondents in the counter affidavit that the entire land in Survey No.42 to an extent of Acs.102.10 gts is Government land and through proceedings No.D4/52/2016 dated 06.08.2018, the third respondent directed the fourth respondent to hand over the land to an extent of Acs.5.00 in Survey No.42 situated in Naspur Village and Mandal to the Principal District and Sessions Judge, Mancherial, for construction of District Court Complex and in furtherance of the same, an extent of Acs.5.00 in Survey No.42 was identified by the Assistant Director, Survey and Land Records, Mancherial and has submitted sub-division through letter No.A5/375/2018 dated 31.07.2018. Subsequently, the said extent of land was also handed over to the Principal District and Sessions Judge, Adilabad, by way of Zimmapatrik dated 05.09.2018. It is also stated by the respondents that the land, which is being claimed by the petitioner to an extent of Acs.3.00 gts situated in Survey No.42/22 is no way concerned to the land already allotted to the District Court Complex. It is further stated by the respondents that through letter No.A10/CA/485/2021 dated 07.02.2022, the Assistant Director, Survey and Land Records, Mancherial, has submitted a location map of the land in Survey No.42 of Naspur Village and as per the said map, the land that is being claimed by the petitioner was at different location than the land which was already handed over to the Principal District and Sessions Judge, Mancherial. Thus, the respondents' specific case is that the land that is allotted under the impugned G.O. to the Judicial Department has nothing to do with the land that is being claimed by the petitioner. It is further stated in

the counter affidavit that the said extent of Acs.3.00 gts in Survey No.42 was assigned in favour of Sri Syed Bin Salam and his name was also recorded in the pahani for the year 1970-71 and that the said extent of land resumed to the Government through proceedings No.B/4326/97 dated 14.11.1997 along with other adjacent lands situated in Survey No.42 and that the same is under Government custody and the same is being shown as Kharij Khatha since the year 1998-99 to 2005-06 and the enjoyer was recorded as TNGOs House Site. It is further stated that the petitioner is not in physical possession of the subject land and in the guise of the assigned patta, the petitioner is trying to grab the valuable Government land, which is adjacent to the Integrated Collector Office Complex.

6. Heard Mr. M. Pridhvi Raj, learned counsel for the petitioner and the learned Special Government Pleader representing the learned Advocate General for the respondents.

7. The categorical statements made in the counter affidavit i.e. (1) the land covered by impugned G.O. is different land and located at different place; (2) the land that was assigned to Syed Bin Salam has been resumed to Government through proceedings No.B/4326/97 dated 14.11.1997; and (3) that the land to an extent of Acs.5.00 gts in Survey No.42 of Naspur Village was handed over the Principal District and Sessions Judge, Adilabad by way of Zimmapatrik dated 05.09.2018, are not disputed by the petitioner either by filing a reply affidavit or at the time of arguments.

8. In view of the specific contention of the respondents that the land that is allotted in favour of the Judicial Department under the impugned G.O. is totally a different extent of land than the land being claimed by the petitioner, the petitioner has no locus to question the impugned G.O. Further, as contended by the respondents, the assignment stated to have been made in favour of Sri Syed Bin Salam in the year 1969 was resumed back to the Government through proceedings No.B/4326/97 dated 14.11.1997. The said proceedings dated 14.11.1997 has become final as the said proceedings is not questioned by the petitioner or by Sri Syed Bin Salam, the original assignee, till date. Unless and until the said resumption order is questioned successfully by the petitioner or anybody claiming through the original assignee, the petitioner herein or any other person can have any right to make any claim over the said land to an extent of Acs.3.00 gts in Survey No.42/22.

9. In the description of the cause title of the present Writ Petition, the petitioner is shown as son of one 'Sayeed'. The 'no objection certificate' dated 19.08.2013 and the house ownership certificate dated 07.02.2014 filed by the petitioner shows the name of the father of the petitioner as Jabri Syed. On being asked, counsel for the petitioner could not explain the discrepancy in mentioning the name of the petitioner's father differently on different documents. Thus, there is every doubt about the genuineness of the claim made by the petitioner in respect of the subject land. Though petitioner claims to be in possession of the

subject land, no document is filed standing in the name of the petitioner to show that he has been in possession of land to an extent of Acs.3.00 gts situated in Survey No.42/22. The house tax receipts said to have been issued by the Naspur Municipality and Naspur Gram Panchayat does not refer to any survey number but they refer to only a house number. There is no link between the said house number and the subject land.

10. Further, as already observed above, there is every doubt about the very claim made by the petitioner as son of the original assignee, Sri Syed Bin Salam, itself is doubtful and the petitioner has not placed any material on record to show that he is the son of Sri Syed Bin Salam.

11. Thus, the petitioner failed to establish any legal, statutory or constitutional right or infringement of any such right.

12. In the light of the above, I do not find any merits in the Writ Petition and the Writ Petition is, accordingly, dismissed.

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