
(2004) 02 AP CK 0062

In the Andhra Pradesh High Court

Case No : Writ Petition No. 8262 of 2003

Lakshmi Construction and Others

APPELLANT

Vs

Government of A.P. and Others

RESPONDENT

Date of Decision : 26-02-2004

Acts Referred:

Andhra Pradesh Survey and Boundaries Act, 1923 — Section 5, 6

Citation : (2004) 2 ALD 755 : (2004) 3 ALT 410

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : P. Pratap Reddy, for the Appellant; Government Pleader for Revenue, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—This case discloses An instance of high-handedness and flagrant violation of known principles of law and procedure prescribed under the relevant statutes; by the Revenue and Police Authorities of the State, who are supposed to ensure implementation of the same.

2. The land in Sy.Nos.90/1, 90/2 and 92, admeasuring about Acs.33.08 gts of Gachibowli Village was purchased by a Private Limited Company, by name M/s. Industrial and Agricultural Engineering Company (for short "the Company") through a sale deed dated 1-10-1962. The extent of land in Sy.No.92 is Acs. 16.10 gts. The company sold this in favour of seventeen individuals through separate sale deeds and the land was assigned sub-divisions from 92/2 to 92/18, indicating the extents purchased under the various sale deeds. One Mr. R.Satyanarayana Reddy purchased an extent of Ac.2.00 gts in Sy.No.92/2. The petitioners purchased the same in different extents from the transferees of Satyanarayana Reddy. The petitioners claim to be in possession of Ac. 1.34 gts of land in Sy.No.92/2.

3. Adjoining the land in Sy.No,92, there is a vast extent of land belonging to the

Government in Sy.No.91, admeasuring about Acs.500.00 gts. Parts of this land have been allotted to various departments and agencies. Acs.50.00 gts of land in Sy.No.91, by the side of Sy.No.92 is said to have been allotted in favour of Industrial Development Bank of India (IDBI). While demarcating the said Acs.50.00 gts., an attempt was made to include part of the land in Sy.No.92. Satyanarayana Reddy, who was the then owner, objected to this and submitted a representation to the Joint Collector, Ranga Reddy District. He, in turn, called for a report from the Mandal Revenue Officer, Sherlingampally- the 3rd respondent herein. On the basis of the report submitted by the 3rd respondent, the Joint Collector, passed an order on 12-8-1989, holding that the various persons who have purchased Acs. 16.10 gts of land in Sy.No.92 are in possession of the respective extents purchased by them and the map prepared by the Revenue officials while delivering the land in favour of IDBI, does not represent the correct state of affairs. He directed necessary steps to be taken in the matter.

4. Petitioners complain that despite these developments, the respondents have demolished the compound wall which was existing in between the lands in Sy.Nos.92 and 91 on 19-4-2003 claiming that the land is part of Sy.No.91. They seek a writ of mandamus declaring the action of the respondents in demolishing the compound wall, sheds and gate of the land admeasuring Ac.1.34 gts in Sy.No.92/2, as illegal, arbitrary and not to disturb their possession or induct third parties into it. Petitioners allege that they have not been served with any notices nor any proceedings were initiated against them under any provision of law.

5. The 3rd respondent filed a counter-affidavit. He admitted that the land in Sy.No.92 was sub-divided into eighteen bits and that the possession of the respective owners was indicated in the revenue records. It is also stated that Acs.50.00 gts of land in Sy.No.91, by the side of 92, was allotted to IDBI. He contends that the boundaries are demarcated basing on tippins available with the Survey and Land Records Department. He is said to have requested the survey authorities to demarcate the land in Sy.No.91 and to fix the boundaries. The Assistant Director of Survey and Land Records, Ranga Reddy District, is said to have directed the Deputy Inspector of Survey to complete the demarcating work and fix the boundaries.

6. It is stated that during the course of such demarcation, it emerged that a compound wall was constructed in the Government land in between Sy.No.92 and the land held by Jawaharlal Nehru Institute for Development Banking, and based on the same, the compound wall was removed to safe guard the Government land. It is stated that an extent of Acs.2.00 gts of land was recovered in the process and the same was handed over to the Commissioner of Police, Cyberabad, for construction of office of Deputy Commissioner of Police traffic and control room. The land is said to have been handed over to the Circle Inspector of Police, Narsing the 6th respondent, under cover of panchanama, dated 17-4-2003.

7. Heard the learned Counsel for the petitioners and the learned Government

Pleader for Revenue.

8. The complaint of the petitioners is that the respondents have high-handedly demolished the compound wall and are taking steps to dispossess them. If what is expressed by the petitioners is only an apprehension, this Court ordinarily would have issued directions to the respondents, not to take any action, without following the procedure prescribed by law. However, in this case, the respondents have admitted whatever the petitioners have stated as regards the demolition of the compound wall, sheds and removal of fencing.

9. The petitioners have traced their title through various transactions up to the point where the entire land in Sy.No.92 along with Sy.Nos.90/1 and 90/2 was held by the company. The respondents do not dispute the legality of these transactions. The sub-division of Sy.No.92 is furnished in a tabular form by the 3rd respondent himself. The respondents, however, do not claim that they have taken over any land in Sy.No.92. If the case presented by the respondents is to be taken at its face value, it is to the effect that they entertained a doubt as to the correctness of the boundary between the land in Sy.Nos.92 and 91 and for that purpose, they approached the authorities under the Survey and Boundaries Act, 1923. No exception can be taken to any recourse to such a procedure.

10. The question, however, is as to whether the procedure prescribed under the Survey and Boundaries Act, 1923, was followed while undertaking the demarcation of the boundaries. The said Act and Rules mandate that whenever, any survey is undertaken in respect of any land, the neighbouring land owners shall be put on notice. But, such a course of action was not adopted by the respondents. The effort appears to be to some how to carve out land for the police department. They felt that it is not necessary to issue notice to the neighbouring land owners. The Officer, who has conducted the survey has flouted all the basic and primary norms of conducting survey and has chosen to demarcate the boundaries including the land of the petitioners. This Court finds that, it is such unscrupulous and irresponsible persons that create disputes and litigations. It is high time that the Director of Survey and Land Records initiates steps against the persons who conducted the survey in utter violation of the basic principles of law, if he is serious about maintaining the sanctity of survey and demarcations.

11. Even where it emerges during the course of a validly held survey, that the boundaries are to be refixed, the persons who are in possession of land, cannot be dispossessed just like that. On the basis of the outcome of the survey, necessary steps are to be taken to recover possession in accordance with law. Howsoever, authentic the survey may be, it cannot provide a ground in favour of any one including any Government Department, to dispossess a person from any land. In the counter-affidavit, the 3rd respondent has stated as under:

"It is submitted that after demarcation of land in Sy.No.91 of Gachibowli Village by the Deputy Inspector of Survey, fixed the boundaries of the land. The revenue

authorities noticed some unauthorized compound walls in the Government land in between Sy.No.92 and Jawaharlal Nehru Institute for Development Banking and hence removed the compound walls to safeguard the Government land in Sy.No.91 of Gachibowli Village".

12. To say the least, it is a sad reflection on the understanding of the law by an officer of the rank of Deputy Collector to have subscribed to such a view. It is on account of the importance of the lands surrounding the city and the potential disputes, that the Government has chosen to appoint a person of the cadre of the Deputy Collector as Mandal Revenue Officer. The object was to ensure that the matters are appreciated in a dispassionate manner without giving into pressures and to ensure that steps are not taken contrary to the procedure prescribed under the Revenue laws. The 3rd respondent had proved himself to be a person unfit to hold such a post. An ordinary Revenue Inspector would have acted in better and lawful manner in the matter.

13. One important aspect, which needs to be noticed is that even while delivering the possession of the land in favour of IDBI, the Survey authorities have indicated the boundaries in the panchanama. They read as under:

14. Petitioners claim that the compound wall and fencing in the western boundary as belongs to them. The 3rd respondent does not even contend that any other compound wall has been constructed subsequent to the said panchanama. Hence, the action of the 3rd respondent in demolishing the compound wall and other structures is contrary to their own record.

15. From the above narration of the facts and discussion, it emerges that, except yielding to the pressure of the police authorities somehow to carve a land for them, there did not exist any basis for the 3rd respondent to resort to such a high-handed and unlawful act. The respondents have not only flouted the Revenue laws in the matter of fixing the boundaries, but have acted in a manner comparable to the one resorted to by unlawful elements in the society. Instead of discouraging such acts when resorted to by private individuals, respondents themselves have gone to the extent of demolishing the compound wall, sheds and removing the fencing etc. This Court takes serious exception to the high-handed and blatant illegality committed by the respondents.

16. The writ petition is accordingly allowed. The respondents, in particular, Respondents 2, 3, 5 and 6 are directed to restore the compound wall and sheds demolished by them and the fencing that was removed from the land of the petitioners, within a period of one month from the date of receipt of a copy of this order, with their own costs and to pay Rs. 10,000/- towards costs to the petitioners.

17. Since the entire procedure adopted by the respondents is found to be high-handed and illegal, it is directed that the demarcation of the boundaries and any steps taken subsequent thereto shall be without any legal consequences.

18. The respondents are restrained from interfering with the possession and enjoyment of the petitioners in any manner. It is, however, made clear that in case, the respondents intend to demarcate the land, it shall be open to them to proceed only after following the procedure prescribed by law, and in particular, after issuing notice to the petitioners.