

(2021) 08 TEL CK 0075
In the Telangana High Court
Case No : Writ Petition No. 19180 Of 2021

Medak Catholic Mission

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 27-08-2021

Acts Referred:

Constitution Of India, 1950 — Article 14, 19(1)(g), 21, 300A

Citation : (2021) 08 TEL CK 0075

Hon'ble Judges : P.Naveen Rao, J

Bench : Single Bench

Advocate : P Roy Reddy

Final Decision : Disposed Of

Judgement

1. Heard Sri P. Roy Reddy, learned counsel for petitioner and learned Assistant Government Pleader for Revenue appearing for respondent Nos.1 to 3.

2. This Writ Petition is filed for the following relief:

"...to issue a Writ, Order or Direction more particularly one in the nature of Mandamus, declaring the action of the 3rd Respondent in causing survey to be conducted on 04.11.2020 resulting in drawing up of panchanama, without notice to the Writ Petitioner, thereby affecting the Petitioner's private property, covered by Sy.Nos.197/1, 197/2 and 198/2, total extent Ac.5.11 Gts in Kalwakunta Village, Sanga Reddy Mandal and District, as illegal, arbitrary, without jurisdiction, suffering from legal mala fides, not binding on the Petitioner and violative of Articles 14, 19(1)(g), 21 and 300A of the Constitution of India and consequently set aside the said panchanama dt. 04.11.2020."

3. Shorn of details, according to petitioner, he purchased lands to an extent of Acs.5.11 guntas in Survey Nos.197/1, 197/2 and 198/2 of Kalvakunta Village, Sanga Reddy Mandal and District, through registered sale deeds bearing document No.1443/80; 1465/80 and 1598/80 dated 21.07.1980; 23.07.1980 and 30.07.1980 respectively, and in possession and enjoyment of the same.

4. However, the material on record discloses that the fourth respondent herein, who is the son of original pattadar, is making a claim that he is still in possession of Ac.0.21 guntas in Survey No.197/1 and he alleged that petitioner is interfering with his possession and enjoyment of the said extent of the land. He has instituted O.S.No.24 of 2021 in the Court of Principal Junior Civil Judge, Medak at Sangareddy.

5. According to learned counsel for petitioner, in the said suit, plaintiff laid great emphasis on ownership claim by referring to panchanama conducted on 04.11.2020, as a result of alleged survey conducted behind the back of petitioner. Learned counsel particularly points out that at the bottom of Tounch-Map, it is recorded "shown as 197/6 which is incorrect. I am furnishing below in detail or the same for your kind perusal". He also points out that according to sketch drawn by the Mandal Surveyor, Sangareddy, only sub-divisions 1 and 2 are shown in Survey No.197, but, the note quoted above shows that the sub-division 6 was wrongly mentioned. However, the Surveyor has not pointed out where does sub-division 6 exists and why it was shown as incorrect. He submits that the panchanama with Tounch-Map is filed as one of the exhibits in the suit and then only, the petitioner came to know about the same. He further submits that though the Tounch-Map refers to continuation in the next page, but no such page was filed in the trial Court and in spite of best efforts made by petitioner, he could not secure a copy of the entire report.

6. According to the learned counsel, panchanama is contrary to the endorsement given to the petitioner by the Tahsildar on 23.04.2019 whereas the said endorsement discloses that entire extent of land was sold by the original pattadar and no further land remained with her.

7. It appears, the 4th respondent is relying on the panchanama along with Tounch-Map in the pending suit. Since the suit, where the fourth respondent set up a claim of ownership of 21 guntas of land in Survey No.197/1 is pending, this Court is not inclined to express any opinion on the claim of the petitioner vis-à-vis the stand of the fourth respondent in the pending suit. It is open to the petitioner to take the defence on all aspects of the issue in the suit.

8. The fact remains that the petitioner has not availed the remedy of appeal provided under Section 158 of the Land Revenue Act as well as the Circular instructions issued by the Commissioner, Survey, Settlements and Land records. If what is contended by the learned counsel for the petitioner on what is recorded at the bottom of Tounch-Map enclosed to the panchanama is erroneous, nothing prevented the petitioner from seeking a clarification from the Tahsildar's office or by way of filing appeal raising specific contention on this issue.

9. Thus, leaving it open to the petitioner to take the defence as available to him in law in the pending suit as also to avail the remedy as available against the survey report with panchanama, the writ petition is disposed of. It is made clear that there is no expression of opinion on merits and stand/claims of the

respective parties are preserved to be urged in the pending suit. Pending miscellaneous petitions, if any, shall stand closed.