

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.(PIL).NO.133 OF 2016

O R D E R (Per the Hon'ble Sri Justice A.Rajasheker Reddy)

The present public interest litigation has been instituted by the petitioner, who claims to be an Advocate, a Hindu and a public spirited person, alleging that the land of Sri Venu Gopala Swamy Temple of Kosgi Village and Mandal, Mahabubnagar District, in Sy.No.1808, has been encroached by impleaded respondents 7 to 17, and have raised permanent structures, and that though the 4th respondent – Tahsildar, has issued notice in file No.B/6349/2011 dated 01.02.2012 under Section 6 of Land Encroachment Act, 1905 (for short 'the Act'), and further authorized the 5th respondent – Grampanchayat, Kosgi Post and Mandal, represented by its Executive Officer, to take steps for eviction and to take possession of the said land, no action has been taken till date and the alleged encroachers are in possession and enjoyment of the temple land, therefore, he seeks for a direction to the official respondents to evict the encroachers and to protect the subject land of the temple.

Counter affidavit is filed on behalf of private respondents 7, 8, 10 to 16, denying the allegations of the writ petitioner and stating that they have purchased a total extent of Acs.0-13 gts. of land in Sy.No.1807 of Kosgi village and Mandal, Mahbubnagar District from the original pattadar (owner) Sri B.Ram Chander and others through a registered sale deed bearing No.1969/2000 dated 23.09.2000 and the said land was demarcated in the presence of Revenue Divisional Officer, Narayanpet and Divisional Panchayat Officer on 24.08.1990 and on 04.09.1990, and further the Assistant Commissioner of Endowments vide proceedings in

Lr.No.C/2242/2000-02 dated 04-06-2004, stated that the land in Sy.No.1807 is patta (private) land, abutting Sy.No.1808 and that Endowment Department has no objection for raising structures and thus these private respondents after obtaining statutory permissions, raised structures and they are in possession of Ac.0-07 gts in Sy.No.1807, and an extent of Ac.0-06 gts., has been acquired by the Government for road widening. To the notice issued by the Tahsildar vide No.B/6349/2011 alleging that they are in unauthorized occupation of the land in Sy.No.1808 of Kosigi village, they filed appeal on the file of Revenue Divisional Officer, Narayanpet in Appeal No.409 of 2012, and vide proceedings dated 19.05.2012, the said appeal was allowed holding that these respondents have purchased the land in an extent of Ac.0.13 gts in Sy.No.1807 from the original pattadar Sri B.Ramchander through a registered sale deed and that the Tahsildar did not make out a case of encroachment in Sy.No.1808. It is stated that these proceedings have attained finality. Copy of the order dated 19.05.2012 passed by the passed by the Revenue Divisional Officer in A/409/2012, is filed as additional document. With these averments, the writ petition is sought to be dismissed.

The Assistant Commissioner, Endowments Department, Mahabubnagar District, filed counter affidavit on behalf of 6th respondent and stated *inter alia* that in pursuance of the directions of this court in an earlier public interest litigation in W.P.No.132 of 2016 dated 25.10.2016, filed by the present writ petitioner, the Assistant Director, survey and Land Records has conducted survey and, however, as the writ petitioner raised objection stating that survey was not conducted properly in Sy.Nos.1808 and 1737 and that there are encroachments in the said survey numbers, and further the Panchayat Secretary of Kosgi Gram Panchayat vide his

Lr.No.A/133/2016 dated 19-11-2016, also stated that no boundaries were demarcated and that if boundaries are demarcated, temple lands can be protected, the Assistant Director, Survey and Land Records, Mahaboobnagar, vide Lr.No.C/2260/2011 dated 25.01.2019, was again requested to conduct resurvey of the temple lands existing in Sy.No.1737, 1805, 1808, 1809, 1811 and 1812 of Kosgi village, duly issuing notice to the concerned, to take further action under Section 6 of the Act.

No reply affidavit is filed.

Heard the petitioner, who appeared as party-in-person, learned Government Pleader for Revenue for respondents 1 and 4, learned Standing Counsel for Endowments for 2nd respondent, learned Government Pleader for Endowments for respondent No.6, learned Government Pleader for Panchayat Raj for respondent No.3, Sri G. Narendra Reddy, learned Standing Counsel for 5th respondent – Gram Panchayat, and Sri M.V.Pratap, for private respondents 7, 8, 10 to 16. None appeared for private respondents 9 and 17.

The main and only allegation in this public interest litigation is that the private respondents 7 to 17 are in encroachment of land in Sy.No.1808 of Kosgi village and Mandal, Mahabubnagar District, which belongs to Sri Venu Gopala Swamy Temple, as per revenue records, and though the 4th respondent – Tahsildar has issued notice vide file No.B/6349/2011 dated 01.02.2012 under Section 6 of the Act, to the said private respondents, no action has been taken till date. On the other hand, the claim of private respondents as noted above is that they are not in possession of temple land in Sy.No.1808 and that they are in possession of patta (private) land in an extent of Ac.0-13 gts. in Sy.No.1807, which was purchased by them

under registered sale deed and that the appeal filed by them in A/409/2012 on the file of Revenue Divisional Officer, Narayanpet, against the notice under Section 6 of the Act dated 01.02.2012, was allowed holding that the 4th respondent – Tahsildar, could not make out any case that these respondents are in possession of land in Sy.No.1808. In the counter affidavit filed by these private respondents it is stated that the land purchased by them was demarked in the presence of revenue officials and that the Assistant Commissioner of Endowments vide proceedings in Lr.No.C/2242/2000-02 dated 04-06-2004, stated that the land in Sy.No.1807 is patta land, and abutting the land in Sy.No.1808 and that Endowment Department has no objection for raising structures. In view of these rival claims and the proceedings of the revenue and endowment officials, this court under the writ jurisdiction, cannot record any finding either way. However, since it is stated in the counter affidavit filed on behalf of the 6th respondent, that the Assistant Director, Survey and Land records, Mahboobnagar, vide Lr.No.C/2260/2011, dated 25-01-2019 was requested to conduct resurvey of the temple lands in Sy.No.1737, 1805, 1808, 1811 and 1812 of Kosgi village, for taking action under Section 6 of the Act, the public interest litigation can be disposed of directing the said authority to conduct survey and the competent authority to take action in accordance with law, based on the said survey report.

Having regard to the above facts and circumstances of the case, without expressing any opinion on the rival claims of the parties, this public interest litigation is disposed of directing the Assistant Director, Survey and Land Records, Mahboobnagar, to conduct survey of the subject land after issuing notice to all the affected parties, in the presence of the

officials of the Endowment Department – 6th respondent, and based on the said survey report, the competent authority under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, as adapted to the State of Telangana, to take appropriate action in accordance with law, for removal of encroachments.

Since, the Assistant Director, Survey and Land Records, Mahboobnagar, is not a party to this writ petition, office is directed to mark a copy of this order to the said authority, for compliance of the directions of this court.

Miscellaneous petitions pending, if any, shall stand closed. No costs.



THOTHATHIL B. RADHAKRISHNAN,CJ

A.RAJASHEKER REDDY,J

Date:12—03—2019

AVS