

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION (PIL) No.287 of 2020

ORDER: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

The present writ petition (public interest litigation) has been filed by the petitioner stating that the respondent Nos.2 to 4/the District Collector, Commissioner, Municipal Corporation, and the Tahsildar, Karimnagar, are not initiating any action to take possession of Government land, admeasuring 846 square yards, in Survey No.48 situated at Sahethnagar, Karimnagar Town, which is a Government land.

A detailed and exhaustive reply has been filed in the matter by the Tahsildar, Karimnagar Mandal. Paragraphs 4 to 7 of the reply are reproduced as under:-

4. I respectfully submit that the total extent of the land in Sy.No.48, is an extent of Ac.1-14 gts situated at Karimnagar town and it is recorded in revenue records as government Kharij Khatha land. The then Commissioner, Municipal Council, Karimnagar, vide Ref.No.2797/G1/75,dt.08.03.1975 accorded permission to the respondent No.5 to construct a shed at Saheth Nagar, Karimnagar town. This respondent office Tahsildar, Karimnagar taluk, issued notice under Sec. 7 of the Land Encroachment Act, 1905, to the respondent No 5 to offer his explanation by 28-10-1980 as to why the Saw mill being run in Government land in an extent of Ac.0-08 in Sy.No.48, situated at Karimnagar town, should not be evicted.

On such notice, the 5th respondent had submitted his reply on 28.10.1980 stating that one Mr.Allauddin was in possession of the land in Sy.No.48, since last thirty years and he sold the land to one Mr.Hameed Baig, and in turn Mr.Hameed Baig, who constructed a hut and shed and disposed the same and he had purchased presuming it as abadi land and in possession of the same by erecting saw mill under self employment scheme and paying taxes from 1976 onwards and requested to drop proceedings and also requested to regularize the possession over the land.

5. I submit that the then Tahsildar, Karimnagar taluk, vide Ref.No.A5/9678/1981, dt.30.07.1981 was issued two assignment certificates to an extent of 468 Sq.yards in Sy.No.48 Kharij Khatha land in favour of 5th respondent father and an extent of 383 Sq.yards in Sy.No.48 Kharij Khatha land in favour of 5th respondent (for residential purpose), while mentioning the existence of shed vide Ref.No.A5/9678/1981, dt.07.08.1981 and issued a memo to the 5th Respondent and his father Mr. M.Narayan Rao, to remit cost of land an amount of Rs.900/- each, for regularization of old encroachments in Sy.No.48 under the provisions of the rules for assignment by collecting cost of land i.e., Rs.300/-per gunta. The 5th respondent and his father Mr.M.Narayan Rao, have paid the amount of Rs.1050/- each, through challans in to government treasury and filed in Tahsildar's Office, Karimnagar taluk on 21.08.1981. The name of the respondent No.5 was entered in the pahani for the year 1980-1981 onwards as occupier of the land. The 5th respondent had paid non-agricultural assessment tax regularly in respect the said land.

6. I respectfully submit that, based on the assignment patta certificates issued by the then Tahsildar, Karimnagar taluk, vide Ref.No. A5/9678/81, the then Mandal Revenue Officer, Karimnagar, vide Ref.No. B/379/99, dt.15.12.1999, issued mutation proceedings for the land an extent of 463 Sq.yards and 383 Sq.yards in Sy.No.48 in favor of M.Narayana

Rao and the 5th respondent under A.P.Rights in Land & PPBs Act-1971., and Rules-1989, framed there under and entered the names as Pattedars/owners in revenue records. The Mandal Revenue Officer, Karimnagar, issued possession certificate vide Ref.No.B1/4081/2000, dt.10.11.2000 in favor of 5th respondent to the total extent of 846 Sq.yards of land in Sy.No.48. Further, the balance extent of land in Sy.No.48 Kharij Khatha, is totally covered by roads and residential houses/ structures/Majeed.

7. I submit that, in view of the facts submitted above, the allegation/contention of the petitioner that the 5th respondent has illegally occupied the Government land in Sy.No.48 at Sahet Nagar locality of Karimnagar town, is factually in correct, untenable and are invented for the purpose of filing present case and the petitioner is put to strict proof of all these allegations and the petitioner got no valid grounds, devoid of merits. I am also reserving my right to file a detailed/additional affidavit as and when necessary after obtaining the permission from the Hon'ble court”.

The aforesaid reply reveals that the subject land, admeasuring 846 square yards, is part of total extent of Ac.1.14 guntas of Survey No.48 and it was recorded in the revenue records as Government Kharij Khatha land. The then Municipal Commissioner, Karimnagar, vide order dated 08.03.1975, accorded permission to respondent No.5, Sri Mecheneni Ashok Rao, to construct a shed and thereafter, a notice under Section 7 of the Land Encroachment Act, 1905 was issued to respondent No.5 to explain as to why the Saw Mill, which is being run on the Government land admeasuring Ac.0.08 guntas

in Survey No.48, should not be removed and why he should not be evicted. The respondent No.5 did submit a reply stating that one Mr. Allauddin was in possession of the land in Survey No.48 for the last 30 years and he sold the land to one Mr. Kameed Baig, who in turn constructed a hut and shed and sold the property to him. A prayer was also made to regularise the possession over the land. The Tahsildar on 30.07.1981 issued two assignment certificates to an extent of 468 square yards in Survey No.48 and to an extent of 383 square yards in Survey No.48 in favour of respondent No.5. The name of the respondent No.5 was entered in the pahani for the year 1980-81 as occupier of the land. Mutation was also carried out after grant of assignment patta certificates and the remaining land in Survey No.48 is totally covered by roads, residential houses/structures/Majeed. The reply further reveals that respondent No.5 has not at all illegally occupied the Government land as stated in the present public interest litigation.

In the light of the aforesaid reply filed on behalf of the State, this Court does not find any reason to grant the relief prayed for in the present writ petition (public interest litigation) and same stands disposed of accordingly.

Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

13.04.2022
JSU