

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

Criminal Petition No.8363 OF 2021

Between:

Ravi Suri

... Petitioner

And

M.V.V.Prasada Rao, Tahsildar, Saidabad
and another.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 15.02.2023

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
- 2 Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
- 3 Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

K.SURENDER, J

* THE HON'BLE SRI JUSTICE K. SURENDER

+ CRL.P. No. 8363 of 2021

% Dated 06.02.2023

Ravi Suri

... Petitioner

And

\$ M.V.V.Prasada Rao, Tahsildar, Saidabad
and another

... Respondents

! **Counsel for the Petitioner:** Sri C.Sharan Reddy

^ **Counsel for the Respondents:** Sri S.Sudershan
Additional Public Prosecutor

> **HEAD NOTE:**

? **Cases referred**

1 W.P.No.22822 of 2010, dated 14.12.2010

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.8363 of 2021****ORDER:**

1. This Criminal Petition is filed to quash the proceedings against the petitioner/Accused in C.C.No.7315 of 2021 on the file of VII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad.

2. The petitioner is aggrieved by the prosecution for the offences under Sections 447, 427 of IPC and Section 3 of Prevention of Damage to Public Property Act, 1984 on the basis of the complaint of the Tahsildar/2nd respondent.

3. Briefly, the case of the 1st respondent is that the concerned Revenue Inspector found that the land in question declared as Government land under A.P.Escheats & Bona Vacantia Act falls in TS Nos.5 & 6 Block: L, Ward No.167 correlated to Sy.No.12 of Teegalaguda Village was trespassed by this petitioner and he had removed the government sign board and wrote on walls that *“Trespassers will be prosecuted. This land belongs to Ravi Suri P.No.15 & 16 H.No.16-11-16/P/96, Teegalaguda, Saleem Nagar, Malakpet, Hyderabad.”* The staff of the revenue office painted the

walls with black paint and erected a government sign board again on 05.12.2020, but the said sign board was again removed by the accused. During the course of investigation, the police found that this petitioner had trespassed twice into the government land and removed the government sign board painted on the walls, for which reason, he has committed the alleged offences.

4. Learned counsel appearing for the petitioner would submit that the land was allotted to one Lalana Kumari by the Hyderabad Urban Development Cooperative Society by virtue of a sale deed in the year 1960 and she was in peaceful continuous possession by paying taxes. Thereafter, Lalana Kumari had executed an agreement of sale with possession on 10.03.2018 in favour of the petitioner's father and delivered possession to him. However, before sale deed could be registered, the petitioner's father expired on 07.04.2009 and said Lalana Kumari expired on 12.09.2010. According to the learned counsel for the petitioner, the transaction between Lalana Kumari and the petitioner's father was not known to either of their legal heirs.

5. Learned counsel for the petitioner further submits that the petitioner found some documents in his house, which include Will

dated 03.02.2009 in which father of Petitioner mentioned regarding the transaction with Lalana Kumari. Having come to know about the transaction, Petitioner issued public notice on 10.11.2020 about the agreement of sale. When the petitioner found that the government has put up a board upon his property, he requested the authorities to furnish the documents on the basis of which the government was claiming title over the said land. Since there was no response, the petitioner filed W.P.No.21680 of 2020 on 24.11.2020 for a direction against the revenue department to remove the board and not to interfere with the petitioner's peaceful possession of the property. For the reason of filing the said Writ Petition on 24.11.2020, the present false complaint was filed on 07.12.2020 by the Tahsildar. On making enquiries, the petitioner came to know that the government had taken over the custody of the land and same was published in the gazette dated 01.08.2018. Again W.P.No.13669 of 2021 was filed challenging the said gazette notification. Petitioner further filed OS No.363 of 2021 before the XVII Additional Senior Civil Judge, City Civil Court, Hyderabad, for directing the legal heirs of Lalana Kumari to get the sale deed registered in his favour. Both the civil suit and also the writ

petitions are pending adjudication. For the said reason, the proceedings against the petitioner have to be quashed.

6. In support of his arguments, learned counsel for the petitioner relied on the judgment of this Court in W.P.No.22822 of 2010 dated 14.12.2010 in the case of **Deepthi Avenues Private Limited v. The State of Anhra Pradesh** and argued that the Government has to resort to procedure prescribed under Section 11 of the Andhra Pradesh Escheats and Bona Vacantia Act, 1974 and the Petitioner's right cannot be denied over the property. The land belongs to the Petitioner as such the question of trespass does not arise. Accordingly the proceedings have to be quashed.

7. Procedure is prescribed under Telangana Escheats and Bona Vacantia Act, 1974 (for short 'the Act') for the Government to take possession of an 'escheat', which means any property of the owner who dies intestate without leaving a legal heir or 'Bona Vacantia' which means and includes any property, situated in the State, of which there is no rightful owner, but does not include an escheat or any movable property found in a public place. Under Section 9 of the Act when it is found that particular property is in the nature of an escheat or a bona vacantia or not in possession of any person or

if any person in possession surrenders such possession, the concerned officer would take the property into custody and arrange for its care. The concerned authority having followed the procedure under the said Act published notification on 01.08.2018 stating that the land was vacant since 60 years and there was no rightful owner. Notice was also published in prominent newspapers in the State.

8. Under Section 11(1) of the Act after the property is taken into custody by the concerned officer, a notice shall be published in the prescribed manner calling upon any person who may have interest in such property to make their claim within three months from the date of publication of such notice. In the event of any person claiming such property within the period of said three months, the concerned officer has to refer such claim to the civil court and the concerned civil court shall decide as if it were a suit after giving notice to the claimant(s) in accordance with Clause (a) of Sub-section 3 of Section 11 of the Act.

9. In the present case, the government has notified the land as 'Escheat' and accordingly took possession of the land. Nearly 2 ½ years later, the petitioner is claiming that there were transactions

with respect to the said property way back in the year 1960 when property was purchased by one Lalana Kumari and thereafter by way of an agreement of sale in favour of his father in the year 2009.

10. The concerned revenue authorities having followed the procedure under the Act, took possession of the said property. Thereafter, the concerned authorities after taking the property into possession have published the gazette and also notice as required under the said Act. If any person has a claim to such property, the said claim can be preferred within a period of three months from the date of publication of the notice and if no claim is preferred within a period of three months, the property would be declared as 'bona vacantia' or 'Escheat'. Any person to claim 'bona vacantia' or 'Escheat' property as his, the time prescribed is three months from the date of publication. However, there may be extension to the said time period depending on the facts, but the entire procedure prescribed under the Act was followed and the Government has taken possession of the property. Unless a competent Civil Court identifies that this petitioner as the lawful owner on the basis his claims, the Government is the rightful owner. In the said circumstances, when the land in question was in possession of the

Government, the petitioner had indulged in removing the sign board and also painting on the walls, which *prima facie* establish the offence of mischief and criminal trespass. For the said reasons, petition fails and the same is liable to be dismissed.

11. Accordingly, the Criminal Petition is dismissed. Consequently, miscellaneous applications pending, if any, shall stand disposed.

K.SURENDER, J

Date: 15.02.2023

Note: LR copy to be marked.

B/o.kvs

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.8363 of 2021

Dated 15.02.2023

kvs