

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.13193 OF 2021

Between:

P.Venkateshwar Rao

... **Petitioner**

And

Union of India & others

... **Respondents**

JUDGMENT PRONOUNCED ON: 03.06.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

MRS JUSTICE SUREPALLI NANDA

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P.No.13193 OF 2021****% 03.06.2024****Between:**

P.Venkateshwar Rao

... Petitioner**And**

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... Respondents

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> Head Note:

! Counsel for the Petitioner : Mr.Damodar Mundra**^ Counsel for Respondents** : Mr.Gadi Praveen Kumar,
Ld.Deputy Solicitor
General of India for R1
Mr.K.R.Koteshwar Rao,
S.C.for R2

? Cases Referred:

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THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P. No.13193 OF 2021****ORDER:**

Heard Mr.Damodar Mundra, the learned counsel appearing on behalf of the petitioner, Mr.K.R.Koteswara Rao, learned Standing Counsel appearing on behalf of respondent No.2 – Cantonment Board.

Respondent Nos.1 and 3 are shown as not necessary parties by the petitioner.

PRAYER:

2. **The Petitioner approached the Court seeking prayer as under :**

“To issue a Writ, order or direction more particularly a writ of MANDAMUS thereby directing the Respondents to incorporate the name of the petitioner in the GLR Register in respect of house No.3 and 4 in Plot No.3/A, situated at Picket Secunderabad by correcting the entries in the GLR Register as per law.”

3. **The case of the Petitioner, in brief, as per the averments made by the petitioner in the affidavit filed in support of the present writ petition, are as follows:**

a) The petitioner is residing in House No. 3 & 4, situated at Picket, Secunderabad under the jurisdiction of Respondent Nos. 1 and 2 and is holding the premises as first-class legal heir of Late P. Ganesh Rao. Thereafter the petitioner had made applications for mutation of property in his name after the death of his father in respect of house premises bearing building no.3, 4 & 14, corresponding to premises No.4-21-03, situated at Picket, Secunderabad Cantonment admeasuring 1194 (535+662) sq. yards forming part of Plot No.3/A Anjanamma Compound in Survey No.481/247 within the limits of Secunderabad Cantonment.

b) Furthermore, the petitioner's father herein had applied for permission for construction of dwelling house in his demarked area and the same was pending consideration for granting of permission for which the petitioner's father had moved before this Court under Writ Petition vide No. 22331 of 2014 which was disposed of with an Order that the construction application was returned with some objections and the petitioner's father was directed to re-submit the same for consideration and the 2nd Respondent herein was directed to consider the application and sanction the permission as per law.

c) However, even after the petitioner's father re-submitted the plan along with the objections, the same was returned by the 2nd Respondent stating that the name of the petitioner's father did not reflect in the GLR Register, as such, permission cannot be granted. Since then the petitioner's father has been persuading with the authorities for amendment of GLR Register records which has unscrupulously written entries crept in, in respect of plot no.3/A belonging to P.Guruswamy Naidu i.e., grandfather of the petitioner herein with the name of A.Kanthamma who did not have any right in respect of the land in Plot No.3/A.

d) The petitioner through his father had been persuading since 2017 with various letter correspondences, but the 2nd Respondent failed to incorporate the actual names corresponding to the rightful owners which were available and confirmed by the 2nd Respondent till 1988. The 2nd respondent has illegally withheld the correction in spite of various representations. Hence this Writ Petition.

PERUSED THE RECORD

4. **Counter Affidavit filed by the Respondent No. 2 is as under:**

a) The petitioner's father was issued a letter dated 28.05.2014 by the CEO of the 2nd Respondent Board, wherein it was mentioned that the petitioner's father is not recorded as Holder of Occupancy Rights in respect of the property in question which is held on Old Grant Term and the property claimed by the father of petitioner is not tallying with the recorded area, hence the father of the petitioner is advised to comply the above observations for resubmission of the plan.

b) Moreover, the petitioner's father had not submitted any representation enclosing all relevant documents by bringing all the events to the notice of 2nd Respondent. Further the petitioner has not submitted any independent application by bringing all the events and changed circumstance including actual site area tallying with recorded area in the GLR as ordered by this Court in W.P.No. 22331 of 2014 and then submitted a representation to the 2nd Respondent on 02.03.2021 claiming right over land admeasuring 539 Sq yards which is not tallying with the area mentioned in the GLR of H.No. 4, whereas in the representation of the petitioner's father the property is mentioned as 3/A, Anjanamma compound. Further on the same subject property by mentioning the same as

H.No. 95/A in GLR Sy No. 481/247 Picket, a suit in O.S.No. 138/2018 for Partition was filed and the same is pending.

c) Further, the application submitted by the Petitioner is not in consonance with the order passed by this Court in W.P.No. 22331 of 2014 and the petitioner had not complied with the objections raised by the 2nd Respondent vide its letter dated 28.05.2014 addressed to the father of the petitioner. As per the records of the 2nd Respondent the H.No.3, Picket is classified as B-3 old grant and proprietary rights vest with the Government of India Ministry of Defense and same is under the Management of 2nd Respondent.

d) Therefore, in the view of the above stated facts and, in view of the declaration that the entire property bearing House No. 3, 4 and 14 and even House No. 95/A wherein Picket Castle Building has come up is the property of the 1st Respondent which is under the Management of the 2nd Respondent Board neither the petitioner's father nor the Petitioner herein is entitled for a direction to the Respondents herein to incorporate the name of the petitioner in the GLR register.

e) Alongside, the plan submitted by the Petitioner's father for sanction of building plan cannot be considered in view of the fact that, he is not recorded as Holder of occupancy rights of the property in question as the said property. Further, the area of the site where the father of the Petitioner proposed to raise construction is not tallying with the record. Hence, the Writ Petition is devoid of merits and is liable to be dismissed.

DISCUSSION AND CONCLUSION:

5. A bare perusal of the order of this Court dated 19.12.2018 passed in W.P.No.22331/2014 filed by the Petitioner on an earlier occasion very clearly indicates that the said writ petition had been filed by the Petitioner challenging the proceedings dated 28.05.2014 passed by the 2nd Respondent in rejecting the application of the Petitioner for sanctioning of building construction permission, this Court disposed of the said writ petition holding that the said letter is only a correspondence between the 2nd Respondent and the Petitioner and it is not an order rejecting the application of the Petitioner and directed the Petitioner to comply with certain objections and resubmit the plan. **This Court in its**

order dated 19.12.2018 further observed that the said W.P.No.22331/ 2014 is not maintainable and gave liberty to the Petitioner to make a fresh representation enclosing all the relevant documents by bringing all the events to the notice of the 2nd Respondent in view of the changed circumstances if any and upon such representation the 2nd Respondent shall consider the same and pass appropriate orders.

6. It is the specific case of the Petitioner that in pursuance of the orders of this Court dated 19.12.2018 passed in W.P.No.22331/2014 the Petitioner's father resubmitted the plan complying with all the objections and the same was returned by the 2nd Respondent stating that the name of the father of the Petitioner did not reflect in the GLR register as such permission cannot be granted. It is further the case of the Petitioner that the father of the Petitioner had been persuading with the authorities for amendment of GLR register records which had wrong entries crept in respect of Plot No.3/A belonging to the grandfather of the Petitioner herein with the name of A.Kanthamma who did not have any right in respect of land in Plot No.3/A, Picket, Secunderabad. Therefore,

seeking a direction to the Respondents to incorporate the name of the Petitioner in GLR register in respect of H.No.3 & 4 in Plot No.3/A situated at Picket, Secunderabad duly correcting the entries in the GLR register as per law, the Petitioner filed the present writ petition.

7. The counter affidavit filed on behalf of the 2nd Respondent at Para 2 clearly indicates that the Petitioner had not submitted any independent application by bringing all the events and changed circumstances including actual site area tallying with the recorded area in the GLR as ordered by this Court in W.P.No.22331/2014 and submitted a representation to the 2nd Respondent on 02.03.2021 claiming right over land admeasuring 539 sq. yards which is not tallying with the area mentioned in the GLR of H.No.4 whereas in the representation of the father of the Petitioner the property is mentioned as 3/A, Anjanamma Compound.

8. It is also specifically stated in the counter affidavit filed by Respondent No.2 at para 2, that in respect of the same subject property a suit in O.S.No.138/2018 had been filed for partition on the file of the 1st Addl. Chief Judge, City Civil Court, Secunderabad,

wherein the father of the Petitioner is arrayed as Defendant No.34 and the said suit is pending for adjudication.

9. It is also specifically stated at Para 6(4) of the Counter affidavit filed on behalf of Respondent No.2, that the father of the Petitioner herein had suffered a decree in O.S.No.981/1982 where under the father of the Petitioner had been arrayed as Defendant No.5 in a suit filed by one Smt. Laxmi Bai (alias Radha Bai) W/o. Om Rao, who is none other than the brother of the father of the writ petitioner and who had made a representation to the 2nd Respondent Board on 23.11.1998 stating that she had obtained a decree in O.S.No.981/1982, dated 29.09.1984 from III Addl. Judge, City Civil Court, Secunderabad, in respect of H.No.3A, Picket, which property fell to the share of P.M. Guruswamy Naidu and he had bequeathed the said property in favour of Smt. Laxmi Bai under a settlement deed bearing No.68/1945, thus she became the absolute owner of the said property and she also obtained a decree declaring that she is the only absolute owner of H.No.3A, Picket and by virtue of the said judgment, she had requested the 2nd Respondent Board to mutate her name in the Cantonment records as absolute owner.

10. At Para 9 of the counter affidavit filed by the Respondent No.2, it is specifically averred as under :

"9. The Petitioner is not entitled for the relief as prayed for and moreover, the application submitted by the Petitioner did not contain all the factual aspects which it is supposed to incorporate to as ordered by this Court in W.P.No.22331/2014.

11. Taking into consideration the aforesaid facts and circumstances of the case and the specific stand taken by the 2nd Respondent at Para 2, Para 6(iv) and Para 9 of the counter affidavit filed on behalf of the Respondent No.2, (referred to and extracted above), this Court opines that unless the petitioner complies with the earlier directions of this Court dated 19.12.2018 passed in W.P.No.22331/2014, the Respondents herein cannot consider the grievance of the Petitioner as put-forth in the present writ petition. With these observations the writ petition is disposed of. However there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

MRS JUSTICE SUREPALLI NANDA

Date: 03.06.2024

Note : L.R. Copy to be marked.
B/o. *Yvkr*