

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 12TH DAY OF APRIL 2001

BEFORE

THE HON'BLE MR. JUSTICE KUMAR RAJARATNAM

WRIT PETITION NO.15879/2001 (KLR/RES)

BETWEEN:

Mahadevappa, S/o Yallappa
Pattadakal, aged about 50
years, occ. Agriculturist,
R/o Ramapur Site, Saundatti,
Dist. Belgaum.

..PETITIONER

(By Sri S.S. Halalli, Adv.)

AND:

1. The Taluka Social Welfare
Officer, Saundatti Taluk,
Saundatti, Dist. Belgaum.

2. The Tahasildar, Saundatti
Taluka, Saundatti, Dist.
Belgaum.

3. The City Survey Officer and
Assistant Director of Land
Records, Saundatti, Dist.
Belgaum.

4. The Assistant Director,
Karnataka Land Army Corporation,
Gokak, Dist. Belgaum.

..RESPONDENTS

(By Sri P. Sathyanarayana, AGA)

This Writ Petition filed under Articles 226 & 227 of the Constitution of India praying to direct R2 and 3 authorities to issue record of rights and pahani and to survey the Sy.No.53/A/2, situated at Ramapura Site, Saundatti and to settle the boundary marking within a stipulated period & etc.,

This Writ Petition coming on for Prly.Hg. this day, the Court made the following:-

ORDER

The petitioner is an agriculturist and owning a non-agricultural land bearing Sy.No.53/A/2, measuring 2-00 Acres with a living house, situated at the Ramapur Site, Saundatti. The said property has been inherited from his father. The copy of the Record of Rights and Pahani is produced at Annexure-A. The property of the petitioner is surrounded by the following properties:

- East - Open site belonging to one Mr.Karadagi and the grave yerd belonging to Mohammadan Community.
- West - Open site belonging to the Court;
- North - Hill belonging to the Govt.
- South - House property in the area of 2-00 Acres belonging to the petitioner. Open site belonging to one Mr.Udapadi.

2. It is submitted that the said scheduled property was originally agricultural land, and it was converted as non-agricultural land by an order of the Asst. Commissioner, Bailhongal, dated 21.11.1971 at the time of the partition of the family. The said scheduled property Sy.No.53/A/2 is the property of the petitioner and the name of the petitioner has been entered in the record of rights. The petitioner is also staying in the house which is constructed at the western side of the said property.

3. It is submitted that the Northern side adjacent property belongs to the Government. It is

submitted that the respondent authority all of a sudden laid the foundation stone for constructing the hostel encroaching the property of the petitioner about 15 guntas. The petitioner protested against the encroachment by way of legal notice dated 27-1-2001 - Annexure-B, to the Tahasildar who has handed over the said property to the Social Welfare Department to construct the hostel. Pursuant to that the land Army has been entrusted the construction work. The Respondent-Tahasildar in his reply to the legal notice directed the petitioner to produce the P.T. Shet and the map of A D L R, within 7 days in respect of the encroachment of 15 guntas property of the petitioner. The copy of the reply is produced at Annexure-C.

4. The Respondent Social Welfar Officer in his reply dt.6.2.2001 - Annexure-D, to the legal notice has stated that the respondent-Tahasildar has granted the open site, measuring 144 x 50 for the construction of the Govt. Boys Hostel and handed over the same. He has also stated that the petitioner should approach the revenue authorities if there is any objection in respect of the said scheduled site.

5. The petitioner has approached the Village Accountant and the Revenue Inspector for the issue of fresh copy of the Record of Rights and Pahani

and approached the Tahasildar for the same. It is submitted that the Authorities neither issuing the R.T.C. and Pahani nor refusing to issue, but they are postponing for one or other irrelevant reasons orally. The application to issue the fresh R.T.C. and pahani is pending before the Respondent-Tahasildar since 4.12.2000. The copy of the said application is produced at Annexure-E.

6. It is submitted that the petitioner has given one more legal notice to all the respondents. The petitioner has also approached the respondents-Land Records officers with an application for the survey of his property Sy.No.53/A/2 for the marking of the boundary, but the authorities have refused to accept the application. The copy of the legal notice dt.19.3.2001 and the application to the 4th respondent for the survey is produced at Annexures-F and G. It is submitted that the petitioner being a poor agriculturist has done all his possible best efforts to survey the land and get settled the boundry dispute, but the respondent authorities colluding each other are causing great hardship and injustice by not issuing any records, such as record or rights and pahani. Being aggrieved the petitioner has preferred this Writ Petition.

7. All that the petitioner seeks is a writ of mandamus directing the respondents to issue record of rights and pahani and to survey the Sy.No.53/A/2 situated at Ramapur Site, Saundatti and to settle the boundary marking within a stipulated period.

8. Inspite of the legal notice, the respondents have not issued the record of rights or pahani in accordance with law. Unless this is done, the petitioner will not be able to determine the boundaries of his land.

9. Therefore, it will be appropriate to direct the 2nd and the 3rd respondent to consider issuing record of rights and pahani to Sy.No.53/A/2 situated at Ramapur Site, Saundatti and also to settle the boundary marking within a period of ~~three~~ ^{sin} months from the date of receipt of this order. The Writ Petition is disposed of accordingly.

10. Pending consideration there will be a Statusquo regarding any construction taking place allegedly in the land of the petitioner.

Sd/-
JUDGE