

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.29298 OF 2017

Dated:31.08.2017

Between:

Sri Tiwari @ Laxman Prasad,
S/o. Late Ganesh Prasad,
Age 62 years, Occ: Retd. Employee,
R/o.Rampur Village, Cherial Revenue
Mandal, Siddipet, presently residing
At Bhongiri Town and Mandal, Yadadri .. Petitioner

And

The State of Telangana, rep., by its
Principal Secretary, (Revenue)
Secretariat Buildings, Hyderabad and others .. Respondents



The Court made the following:

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ORDER:

Heard.

2. Petitioner claims to be the owner and possessor of agricultural lands to an extent of Ac.1.12 guntas in Survey No.962/C1, Ac.0.20 guntas in Survey No.950/C/2, Ac.0.03½ guntas in Survey No.955/C/1, Ac.0.04 guntas in Survey No.956/A, Ac.0.06 guntas in Survey No.954/A/1, Ac.0.10 guntas in Survey No.958/C/2 and AcS.2.21 guntas in Survey Nos.962/C/1 totalling to Acs.4.36½ guntas situated at Aknoor Village, Cherial Mandal, Siddipet District. While so, petitioner contends that unofficial respondents 4 and 5, disturbed the boundaries of the petitioner's properties, illegally gained access and tried to trespass into his lands. In order to avoid complications and disputes, petitioner submitted application dated 16.11.2016 for conducting survey and fixation of boundaries, but the same was not acted upon by the authorities concerned. Vexed with the conduct of unofficial respondents 4 and 5, petitioner instituted O.S.No.319 of 2016 seeking permanent injunction, which is pending on the file of Principal Junior Civil Judge, Jangaon. By order dated 14.12.2016 in I.A.No.576 of 2016, the learned trial Judge granted *status quo* obtaining over the suit schedule property. Petitioner now contends that the survey ought to have been conducted, as required, to avoid further complications and alleges inaction by the authorities concerned in conducting the survey.

3. Ordinarily, a person may seek conducting of survey in accordance with the provisions of the Andhra Pradesh Survey and Boundaries Act, 1923 by assigning justification in support of such request.

4. In the case on hand, aggrieved by the alleged illegal encroachments and seeking to grant injunction against interference and disturbance of the possession of the petitioner, the petitioner instituted O.S.No.319 of 2016 against the unofficial respondents 4 and 5 and the same is pending consideration. Since the issue concerns the boundary dispute and claim of encroachment and illegal dispossession of the petitioner, he ought to have sought appropriate relief from the civil Court where the suit is pending with reference to conducting of survey and identification of boundaries. Since the dispute between the parties is pending before the civil Court, the authorities cannot now be directed to undertake survey and more so when appropriate remedy is available to the petitioner.

5. The Writ Petition is accordingly disposed of leaving it open to the petitioner to avail the appropriate remedy in the pending suit in O.S.No.319 of 2016 on the file of the Principal Junior Civil Judge, Jangaon. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in the Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:31.08.2017

Note:- Issue C.C. by 06.09.2017

(B/o)

KH