

**HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

WRIT PETITION No.26666 of 2018

**ORDER:**

This writ petition is filed assailing the order 18-07-2018 passed by the 4<sup>th</sup> respondent whereby and whereunder the 4<sup>th</sup> respondent in pursuance of proceedings initiated under Section 6 of the Land Encroachment Act, 1905, observed that the land in GLR (General Land Register) Sy.No.243 is a Government land, for short, "the subject land" and the petitioners failed to prove their claim over the subject land and as an offshoot of the decision so reached directed the petitioners to vacate the subject land (Ac.18-02 guntas) in their alleged un-authorized occupation.

2. The petitioners assail the impugned order on the limited grounds of exceeding jurisdiction, violation of principles of natural justice and not providing the relevant revenue records to them despite the order dated 04-12-2017 in Writ Appeal no.1828 of 2017 requiring the respondent-authorities to provide the available revenue records, as being illegal, arbitrary and un-constitutional and for issuance of appropriate consequential directions.

3. The 4<sup>th</sup> respondent filed detailed counter affidavit referring to the genealogy of the case. According to the 4<sup>th</sup> respondent the claim of the petitioners is to land in Sy.No.196 (old) of Alwal village of Ranga Reddy district, whereas the subject land falls in GLR Sy.No.243 of Tirumalagiri Mandal of Hyderabad district and the petitioners failed to produce iota of evidence in support of their

claim that the land in Sy.No.196 (old) (which became extinct in the year 1944) correlated to the subject land in GLR Sy.No.243 of Tirumalagiri tahsil. It is also stated that the layouts in respect of the Government land were obtained by misrepresenting the facts and the same brought to the notice of the Cantonment authorities vide Lr.No.B2/1681/1994, dated 20-06-2015 to revoke the building permissions and layout sanctions, which was unsuccessfully assailed by the petitioners in WP No.19401 of 2015, the said writ petition disposed of on 13-07-2015 upholding the letter dated 20-06-2015. So far as furnishing documents in compliance of the order passed in WA No.1828 of 2017 it is stated that issue of non enclosure of to the petitioners was brought to the notice of the District Collector, Ranga Reddy district, who in turn informed that the documents sent through registered post no.RN032623917IN, dated 28-04-2018 was returned and informed the 4<sup>th</sup> respondent to serve the returned documents and memo through special messenger and accordingly the available documents sent by the District Collector, Ranga Reddy district were served on 26-05-2018 through special messenger and fixed the final date of hearing on 06-06-2018 and the same was intimated through notice duly serving on the parties and thus they have complied the directions passed in the writ appeal order.

3. Heard Sri D. Prakash Reddy, learned senior counsel for Sri Avinash Desai, learned counsel for the petitioners and the learned Government Pleader for Revenue for the respondents.

4. The main theme of the petitioners is that the subject land in old Sy. No.196 of Lothkunta hamlet of Alwal village correlates to the present GLR No.243 and their forefathers have been in possession of the subject land for more than 100 years. The affidavit filed in support of the writ petition contains details in galore signifying the claim of the petitioners to the subject land, which can be anchored for the present.

5. Inasmuch as in this writ petition, violation of principles of natural justice and exceeding of jurisdiction vested in the authority is complained of, it is suffice it to note that in earlier round of litigation when certain revenue records as sought by the petitioners, allegedly not provided by the authorities, the petitioners filed Writ Petition no.34861 of 2017 wherein the proceedings initiated under Section 6 of the Land Encroachment Act, 1905, were stayed till the documents i.e. revenue records of the subject property furnished to the petitioners. Against the interim orders passed in WP No.34861 of 2017, writ appeal being WA No.1828 of 2017 was preferred by the respondent-authorities and a Division Bench of this Court by order dated 04-12-2017 disposed of the writ appeal and the writ petition. The penultimate portion of the order reads thus:-

*“We see no reason to keep the writ petition pending on the file of this Court as the respondent-writ petitioners’ request, for furnishing of documents, can be acceded to by the appellants in case the records are available. In case they are not, the respondent-*

*writ petitioners may be intimated of the non-availability of such documents.*

*While failure on the part of the concerned officials in making available copies of the documents must undoubtedly be faulted, the action of the respondents–writ petitioners, in filing the present writ petition even before an order is passed by the Tahsildar, Tirumalgiri mandal, cannot also be approved, as all the contentions, put forth in the writ petition, could have been urged after an order was passed by the Tahsildar, Tirumalgiri mandal.*

*The District Collector, Ranga Reddy shall, in case the records are available, make available copies thereof to the respondent-writ petitioners and, if they are not available, he shall so intimate the respondent-writ petitioners within 10 days from today. The Tahsildar, Tirumalgiri mandal shall, thereafter intimate the respondent-writ petitioners of the next date of hearing and, thereafter, take necessary action in accordance with law.”*

6. The case of the petitioners is that due to non-furnishing of the documents as sought by the petitioners, they could not substantiate their case before the 4<sup>th</sup> respondent. It is to be seen that one of the ground assigned by the 4<sup>th</sup> respondent in rejecting the claim of the petitioners is that the petitioners have not produced any revenue record prepared under the statute to show that the land in GLR Sy.No.243 correlates to old Sy.No.196 and their claim is totally imaginary claim and false. Whereas, the case of the petitioners is that they are owners and possessors of land in Sy.No.196, which corresponds to Defence GLR Sy.No.243 and the

petitioners and their ancestors have been in possession of these lands from almost hundred years and the revenue records from 1930 itself show the same to prove the same seek for certain revenue records in relation thereof.

7. In the light of the specific directions issued in the above writ appeal, in the fitness of things, the respondent-authorities ought to have furnished copy of the documents sought for by the petitioners and in case of non-availability of any of the documents sought by the petitioners, intimation thereof need to have been given to them, which in fact was the direction contained in the order passed in the writ appeal stated above. In fact the direction in the writ appeal was to accede to the request of the petitioners to furnish the available records and in case any documents are non-availabe to intimate thereof to them.

8. In the circumstances, the impugned order is un-sustainable for violation of principles of natural justice and the same is liable to be set aside on that ground alone and it is accordingly set aside and the writ petition is allowed.

9. However, it is made clear that this order shall not be construed as deciding the property rights of either of the contesting parties in respect of the subject land. The petitioners shall make an application giving lucid particulars of the revenue documents required with reference to the subject land and on such an application being made, the respondent-authorities to furnish the available revenue records, and if any of the documents sought by

the petitioners are not available, intimate the about the non-availability of documents with reasons to the petitioners, which in fact is the direction in the writ appeal no.1828 of 2017.

10. On receiving the documents, if any, from the authorities, the petitioners to re-submit the same before the 4<sup>th</sup> respondent, and on such submission, the 4<sup>th</sup> respondent, after affording opportunity of hearing to them and with reference to the documents, if any, submitted by them, decide the matter afresh in accordance with law, within two months from the date of filing the application by the petitioners along with the documents secured by them, if any in that behalf. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed. There shall be no order as to costs.

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**A.RAJASHEKER REDDY,J**

Dated: 31-12-2018  
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Date: 31.12.2018

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