

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

THE HON'BLE SRI JUSTICE B. KRISHNA MOHAN

WRIT PETITION Nos.10986 of 2021 and 24434 of 2020
and 10795, 15506 of 2021

WRIT PETITION No.10986 of 2021:

Maddi Kamalanabham,
S/o.late M. Latchayya, aged
about 59 years, Occ:Senior
Devisional Manager, National
Insurance Company,
R/o.H.No.15-15-5/1, Krishna
Nagar, Official Colony,
Maharanipeta,
Visakhapatnam.

.... Petitioner

Versus

The State of Andhra Pradesh,
rep by its Principal Secretary,
Municipal Corporation, A.P.
Secretariat Buildings
Velagapudi, Amaravathi and 2
others.

....Respondents

WRIT PETITION No.24434 of 2020:

Maddi Kamalanabham,
S/o.late M. Latchayya, aged
about 59 years, Occ:Senior
Devisional Manager, National
Insurance Company,
R/o.H.No.15-15-5/1, Krishna
Nagar, Official Colony,
Maharanipeta,
Visakhapatnam.

.... Petitioner

Versus

The State of Andhra Pradesh,
rep by its Principal Secretary,
Revenue Development, A.P.
Secretariat Buildings
Velagapudi, Guntur District
and 3 others.

....Respondents

WRIT PETITION No.10795 of 2021:

Maddi Kamalanabham,
S/o.late M. Latchayya, aged
about 59 years, Occ:Senior
Devisional Manager, National
Insurance Company,
R/o.H.No.15-15-5/1, Krishna
Nagar, Official Colony,
Maharanipeta, Visakhapatnam

.... Petitioner

Versus

The State of Andhra Pradesh,
rep by its Principal Secretary,
Municipal Corporation, A.P.
Secretariat Buildings
Velagapudi, Amaravathi and
another.

....Respondents

WRIT PETITION No.15506 of 2021:

Maddi Kamalanabham,
S/o.late M. Latchayya, aged
about 59 years, Occ:Senior
Devisional Manager, National
Insurance Company,
R/o.H.No.15-15-5/1, Krishna
Nagar, Official Colony,
Maharanipeta,
Visakhapatnam.

.... Petitioner

Versus

The State of Andhra Pradesh,
rep by its Principal Secretary,
Revenue Development, A.P.
Secretariat Buildings
Velagapudi, Amaravathi,
Guntur District and 9 others.

....Respondents

COMMON ORDER:

Heard the learned counsel for the petitioner, the learned Standing Counsel for the Municipal Administration and Urban Development and the learned Assistant Government Pleader for Revenue for the respondents.

2. The W.P.No.10986 of 2021 is filed questioning the proceedings issued by the 2nd respondent, dated 09.06.2021.

3. The W.P.No.24434 of 2020 is filed questioning the action of the Tahsildar and the Village Revenue Officer in making repeated attempts to dispossess the petitioner from the subject property admeasuring 250 Sq.yards bearing H.No.15-5-5/1, Plot No.21 in Sy.No.17/1, Mudasarlova Village, Chinnagadili Mandal, Visakhapatnam District within the limits of Greater Visakhapatnam Municipal Corporation.

4. The W.P.No.10795 of 2021 is filed questioning the action of the 2nd respondent in trying to demolish the room in the ground floor and the columns raised in the 2nd floor of the subject property admeasuring 250 Sq.yards situated at D.No.19-498/10, Plot No.21 in Sy.No.17/1, Mudasarlova Village, Chinnagadili Mandal, Visakhapatnam District within the limits of Greater Visakhapatnam Municipal Corporation.

5. The W.P.No.15506 of 2021 is filed against the District Collector, Visakhapatnam, the Tahsildar Chinnagadili Mandal, Visakhapatnam District and the Greater Visakhapatnam Municipal Corporation for not conducting the survey in respect of the petitioner's land admeasuring 250 Sq.yards bearing D.No.19-498/10 in Sy.No.17/1, Mudasarlova Village, Chinnagadili Mandal, Visakhapatnam District.

6. The learned counsel for the petitioner submits that, the petitioner is the absolute owner and possessor of the Plot No.21 admeasuring 250 Sq.yards at D.No.19-498/10 in Sy.No.17/1, Mudasarlova Village, Chinnagadili Mandal, Visakhapatnam District, having purchased the same under a

registered sale deed *vide* Document No.1704/2013, dated 25.03.2013. The M.R.O, Visakhapatnam, issued clarification Certificate dated 28.06.1988 certifying that the lands covered in Sy.No.22/1B, 9/1A, 9/1B, 9/1C and 17/1 of Mudasarlova Village, Chinnagadili Mandal, Visakhapatnam Mandal, are Ryotwari lands as per the settlement fair Adangal. The Tahsildar, Visakhapatnam, also gave possession certificate, dated 18.01.2014 in favour of the petitioner stating that he is in possession and enjoyment of the subject land in an extent of 250 Sq.yards in Sy.No.17/1, Plot No.21, Mudasarlova Village, Chinnagadili Mandal, Visakhapatnam District. Another possession certificate was also issued by the Tahsildar, dated 12.04.2016 to the same effect. While so, the Commissioner, Greater Visakhapatnam Municipal Corporation, issued a notice under Section 636 of Andhra Pradesh Municipal Corporation Act, 1955 *vide* proceedings, dated 09.06.2021 stating that the petitioner constructed the stilt, ground and 1st floor RCC building unauthorisedly on the land situated in Sy.No.20/1, instead of Sy.No.17/1 of Mudasarlova Village, Darapalem, Ward No.13, contrary to the Building Permit Order and no reply was also submitted by

the petitioner. Hence, directed to remove the unauthorised portion within 24 hours from the date of receipt of that notice. As stated supra, these proceedings were questioned in W.P.No.10986 of 2021. The subject building was given building permission order by the Greater Visakhapatnam Municipal Corporation *vide* Permit No.1089/2510/B/Z1/CLI/2020, dated 15.09.2020. There is an interim order, dated 11.06.2021 passed in W.P.No.10986 of 2021 by this Court directing the petitioner to get the land surveyed by the Revenue Department for identification of the said plot and the said survey report shall be submitted along with the detailed explanation to the notice under Section 452(1) & 461(1) of the APMC Act, 1955. The Corporation was also directed to reconsider the issue to take appropriate action in accordance with law, after the petitioner submits the explanation along with survey report. Till then, the G.V.M.C was directed not to take any coercive steps against the subject building and there was also a direction for the petitioner not to proceed with the further construction in the said land till the survey was conducted and the explanation was submitted by the petitioner. There was also an interim

order passed by this Court, dated 21.12.2020 in W.P.No.24434 of 2020 directing the respondents therein not to interfere with the construction of the petitioner, pursuant to the building permit order dated 15.09.2020. But, liberty was given to proceed with the conducting of survey in respect of the Government lands, by following the due procedure established under law.

7. On the other hand, the counsels appearing for the respondents submit that, the survey was conducted by the Revenue Department on 17.03.2021 by making a request to the petitioner to attend the survey for fixation of boundaries in Sy.No.17/1, 2 and 20 of Mudasarlova Village, Chinnagadili Mandal, Visakhapatnam District, and the petitioner was not available. Hence, the notices were affixed on the property of the petitioner informing the same to the surrounding ryots. Accordingly, the Mandal Surveyor conducted survey with reference to FMB pertaining to the fixation of the boundary between Sy.No.17 and 20 and reported that on ground the subject land in an extent of 75 Sq.Yards is covered in Sy.No.17/2, which is under construction and 175 Sq.yards covered in Sy.No.20/1 is also under construction. As per

the Revenue Records, the classification of Sy.No.17/2 is a Zeroithi land and the classification of Sy.No.20 is a Poramboke Government land. The survey report was also filed by the Government Pleader for Revenue in W.P.No.15506 of 2021 *vide* U.S.R.No.4255/2023 showing issuance of notice to the petitioner dated 25.07.2022 and the report was submitted to the Tahsildar by the Mandal Surveyor on 02.08.2022 stating that he has inspected the land in Sy.No.17/1,2 of Mudasarlova Village, Visakhapatnam Rural Mandal along with the MRI and the VRO in the presence of the petitioner on 01.08.2022 and conducted survey with reference to the FMB and RVM of Mudasarlova Village. During the survey, it was observed that the available land is covered with as follows.

Name of the Village	As on ground Survey No/Extent in Sq.yards		Classificat ion of the Sy.No.	As per Document		Extent	Ground Status
				Doc.No.	Sy.No.		
Mudasarlo va	17/2 part	75 Sq.yds	R.Dry	1704/2013	17/1	250 Sq.yds	The subject land is covered G+1 Rcc Building.(Under construction
	20/1 part	175 Sq.yds	AWD				
Grand Total		250 Sq.yards					

8. Relying upon the said report, the respondents counsels submit that, the subject building was constructed in Sy.No.17/2 and Sy.No.20 of the said village, but not in

Sy.No.17/1. The 75 Sy.yards of the land was occupied in Sy.No.17/2 part and 175 Sy.yards was occupied in Sy.No.20/1 part when the building permission was given for 250 Sq.yards in Sy.No.17/1 to construct G+1 RCC building.

9. In reply, the learned counsel for the petitioner also pointed out that the survey was purported to have been conducted on 02.08.2022, but, the photographs enclosed to the said report is dated 01.08.2022. He further asserted that no notice was issued to the petitioner and as well as to the persons in Sy.No.20 for the purpose of conducting survey of Sy.No.17/1 and 17/2 since they are all contiguous part of the land situated side by side.

10. The Pahani copy issued by the Tahsildar, Visakhapatnam Rural, shows that the Sy.No.17-1 to the extent of Ac.5.58 cents is covered by the layout and the Sy.No.17-2 to the extent of Ac.1.69 cents is also covered by the layout and the Sy.No.20-1 to the extent of Ac.8.90 cents is shown as Government land covered by BRTS road and human campus.

11. The learned counsel for the petitioner also submits that, there is no proper survey conducted in the presence of all the parties concerned, and even the latest report relied upon by the respondents does not indicate any service of notices to the persons situated in Sy.No.20 and as well as the other plot owners of the layout in Sy.No.17/1 and 17/2. Unless there is a comprehensive survey in the presence of all the parties concerned, the issue cannot be decided whether the subject building falls under Sy.No.17-1 or not.

12. In view of the above said facts and circumstances, admittedly, when the main survey was conducted, the petitioner was not present and this Court in its considered opinion feels that another comprehensive survey is required to be conducted to meet the controversy in all these writ petitions, for which, the respondent authorities, i.e., the Revenue and the GVMC Officials concerned are directed to conduct afresh survey in the presence of the petitioner and all other persons pertaining to Sy.Nos.17/1, 17/2 and Sy.No.20 of the said village, by issuing notices to all of them giving reasonable opportunity to participate in the survey

with advanced information fixing the date and the time of the survey. The respondent officials shall proceed with the survey after two (02) weeks from the date of receipt of this order. The respondents are at liberty to issue notices to the petitioner and the other persons, as stated above, and the survey shall be completed by hearing all the objections and the final report shall be drawn localizing the subject land of the petitioner building and in case the subject building of the petitioner falls in other than the survey number specified contrary to the permit order and if the constructions are already made accordingly, the same can be removed by following the due process of law. The whole process shall be completed within a period of eight (08) weeks from the date of receipt of this order. Till final report is drawn and communicated between the petitioner and the others, there shall not be any coercive steps with respect to the subject building and there shall be an order of *Status-Quo* with regard to the subject building subject to outcome of the final report. If the petitioner is aggrieved with the final report of the survey, it is open for the petitioner to work out his remedies under law.

13. Accordingly, these writ petitions are disposed of.
There shall be no order as to costs.

As a sequel, Miscellaneous Petitions pending, if any,
shall stand closed.

JUSTICE B KRISHNA MOHAN

12.07.2023
KMS

THE HON'BLE SRI JUSTICE B. KRISHNA MOHAN

WRIT PETITION Nos.10986 of 2021 and 24434 of 2020
and 10795, 15506 of 2021

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