

**\* THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

**+ Writ Petition No.1672 of 2022**

% Dated 25-01-2022

# Chintala Ram Babu

..... Petitioner

Versus

\$ 1. The State of A.P. rep. by Principal Secretary, MA & UD, Secretariat,  
Amaravati & Anr.

..Respondents

! Counsel for the petitioner : Sri Javvaji Sarath Chandra,  
Sri Jyothi Ratna Anumolu,  
learned counsel

^ Counsel for respondent No.1: Learned Govt. Pleader for MA&UD

^ Counsel for respondent No.2: Sri V.Surya Kiran Kumar,  
Learned Standing Counsel for  
VMRDA.

<GIST:

> HEAD NOTE:

? Cases referred:

1. (1976) 3 SCC 160

**IN THE HIGH COURT OF THE STATE OF ANDHRA PRADESH****Writ Petition No.1672 of 2022**

Between:

Chintala Ram Babu

..... Petitioner

and

1. The State of A.P. rep. by Principal Secretary, MA & UD, Secretariat,  
Amaravati & Anr.

..Respondents

JUDGMENT PRONOUNCED ON: 25-01-2022

**HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? ---
2. Whether the copies of judgment may be marked to Law Reporters/Journals -Yes-
3. Whether His Lordship wish to see the fair copy of the Judgment? -Yes-

**JUSTICE CHEEKATI MANAVENDRANATH ROY**

**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY****WRIT PETITION No.1672 OF 2022****ORDER:-**

This Writ Petition for a mandamus is filed to declare the action of respondent 2 – Visakhapatnam Metropolitan Region Development Authority (VMRDA) in interfering with the possession of the petitioner in respect of the land covered by plot nos.14 and 15 in an extent of 543 Sq. yards and 491.25 Sq. yards covered by Sy.No.335/5 of Madhurawada Village, as illegal, arbitrary and unconstitutional and consequently sought direction to the respondents not to interfere with the possession of the petitioner in respect of the said land.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Municipal Administration appearing for the 1<sup>st</sup> respondent and Sri V. Surya Kiran Kumar, learned Standing Counsel, appearing for respondent 2 – VMRDA.

The petitioner claims to be the owner of the land in question covered by Sy.No.335/5 bearing plot Nos.14 and 15 situated in Madhurawada Village of Visakhapatnam. The petitioner asserts that one Alka Shroff was the owner of the said land and the said Alka Shroff sold away the said land to the petitioner and the petitioner purchased the same under two registered sale deeds dated 03.06.2021. It is stated that the said Alka Shroff purchased the said two plots under the sale deed bearing document No.910 of 1995, SRO Madhurawada, from one Prasangi Murali Krishna on 07.05.1995 and the said Prasangi Murali Krishna purchased the said property from one Manchukonda Ranganayakamma under a registered sale deed dated 28.07.1990. Therefore, the petitioner asserts that after the petitioner purchased the

land from Alka Shroff under the aforesaid two registered sale deeds, the petitioner has been in possession and enjoyment of the same and constructed a compound wall around the said land.

Now, the grievance of the writ petitioner is that, while so, on 07.01.2022, the officials of the 2<sup>nd</sup> respondent – VMRDA visited the said land and interfered with the possession of the petitioner by preventing the construction activity going on at the said land. It is stated that even the officials of the 2<sup>nd</sup> respondent tried to erect a board stating “CAUTION This Site Belongs to VMRDA” and the petitioner resisted them from erecting any such board. It is stated that officials of the 2<sup>nd</sup> respondent asserted that the said site belongs to VMRDA and the petitioner has no right over the said property. Therefore, the present Writ Petition is filed by the petitioner seeking the aforesaid relief.

Sri V. Surya Kiran Kumar, learned Standing Counsel for the 2<sup>nd</sup> respondent – VMRDA, on written instructions, which are also produced before this Court, would submit that the said land covered by Sy.No.335/5, which is originally in an extent of 4.60 cents of Madhurawada Village, was classified as AWD (Assessed Waste Dry) and that it was assigned to one Manchukonda Ranganayakamma in the year 1978 and as the assignee had alienated the said land to the 3<sup>rd</sup> parties in contravention of the provisions of the A.P. Assigned lands (Prohibition of Transfer) Act, 1977 that the then Tahsildar of Visakhapatnam has resumed the said land to the Government under the provisions of the said Act and thereafter allotted the said land to the 2<sup>nd</sup> respondent on 30.12.2005. Therefore, after taking possession of the said land by the 2<sup>nd</sup> respondent that the 2<sup>nd</sup> respondent has sold away Ac.3.13 cents of the land out of the total extent of 4.60 cents to M/s

Deccan Infrastructures Pvt. Ltd., Hyderabad in an open auction conducted in the year 2007 and registered a sale deed in their favour on 22.11.2010 and that the said M/s Deccan Infrastructures Pvt. Ltd., has been in possession and enjoyment of the said land since 22.11.2010. Further stated that an extent of 11 cents covered by the aforesaid Sy.No.335/5, is covered by master plan road.

Learned Standing Counsel also would submit that the said Prasangi Murali Krishna has no title to the property and he has no right to form any layout in the said land and to sell the plots to the vendor of the petitioner. So, he would pray for dismissal of the Writ Petition.

Thus, as can be seen from the aforesaid rival contentions of both the parties, it is evident that there has been a dispute relating to title of the land in question covered by Sy.No.335/5 of Madhurawada Village. The 2<sup>nd</sup> respondent asserts that it is a waste dry land and it was originally assigned to one Manchukonda Ranganayakamma in the year 1978 and as she had alienated the said land to third party in contravention of the provisions of the A.P. Assigned lands (Prohibition of Transfer) Act, 1977, that the said land was resumed to the Government by the then Tahsildar under the provisions of Act 1977 and thereafter it was allotted to the 2<sup>nd</sup> respondent and that the 2<sup>nd</sup> respondent sold away part of the property to M/s Deccan Infrastructures Pvt. Ltd., under a registered sale deed, dated 22.11.2010, whereas the petitioner asserts that one Prasangi Murali Krishna purchased the land from one Ranganayakamma and thereafter one Alka Shroff purchased the said land from Prasangi Murali Krishna and the petitioner has purchased the same from Alka Shroff under two registered sale deeds. The said dispute relating to title of the property, which is purely a civil dispute,

cannot be decided in a Writ Petition. Therefore, the petitioner has to work out his remedy if at all he got any grievance in respect of the said property in a competent civil Court. As the very pleadings in the Writ Petition would clearly show that his title to the property was denied by the 2<sup>nd</sup> respondent, it is clear that a cloud is cast on the title of the petitioner in respect of the said property. Therefore, cause of action arose for petitioner to seek declaration of his title to the said property in a competent civil Court. Instead of seeking appropriate remedy in the competent civil Court relating to the title dispute, the petitioner has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. As already noticed supra, the said disputed question of fact relating to the title of the property cannot be gone into in a Writ Petition filed under Article 226 of the Constitution of India. Therefore, the Writ Petition is devoid of merit and it is liable to be dismissed.

A Four-Judge Bench of the Apex Court in the case of **D. L. F. Housing Constrn. (P) Ltd. v. Delhi Municipal Corpn.**<sup>1</sup>, held that where basic facts are disputed and complicated questions of law and fact depending on the evidence are involved, the Writ Court is not the proper forum for seeking relief and dismissal of writ petition *in limine*, in such cases, is justified and remedy of regular suit is appropriate remedy.

At para-20 of the judgment, the Apex Court held as follows:

“20. In our opinion, in a case where the basic facts are disputed, and complicated questions of law and fact depending on evidence are involved the writ court is not the proper forum for seeking

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<sup>1</sup> (1976) 3 SCC 160

relief. The right course for the High Court to follow was to dismiss the writ petition on this preliminary ground, without entering upon the merits of the case. In the absence of firm and adequate factual foundation, it was hazardous to embark upon a determination of the points involved. On this short ground while setting aside the findings of the High Court, we would dismiss both the writ petition and the appeal with costs. The appellants may, if so advised, seek their remedy by a regular suit.”

Resultantly, the Writ Petition is dismissed as not maintainable. However, the petitioner is at liberty to approach the competent civil Court to seek declaration of his title and for redressal of his grievance in respect of the property in question.

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

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**JUSTICE CHEEKATI MANAVENDRANATH ROY**

Date: 25.01.2022  
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**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

**WRIT PETITION No.1672 OF 2022**

**Date: 25-01-2022**

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