

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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W.P.No. 18709 of 2011

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DATE: 04.06.2015

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Between:

Jidugu Koteswara Rao .. Petitioner

and

The Govt. of A.P.

and five others .. Respondents

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ORDER:-

The petitioner asserts that in 1962, he encroached on the land in an extent of Ac.0.01 cents in Sy.No.115/2 which was classified as village site poramboke situated in Nayunipally village, Vetapalem Mandal, Prakasam District and has been in possession and enjoyment of it by running a tea stall and a pan shop and on 28.10.1994, the 4th

respondent – Mandal Revenue Officer granted house site patta in his favour. While so, it is stated that the 4th respondent, by proceedings dated 13.10.1998, cancelled the patta. Being aggrieved by the proceedings, the petitioner filed W.P.28455 of 1998, and this Court, by order dated 22.10.1998, while disposing of the writ petition, directed the Mandal Revenue Officer not to take any coercive steps either to evict the petitioner or demolish the structure existing in the land till appropriate orders are passed on the reply submitted by the petitioner to the show cause notice dated 12.10.1998. Against the proceedings of the Mandal Revenue Officer, the petitioner also filed a suit in O.S.No.385 of 2000, and the learned Principal Junior Civil Judge, Ongole decreed the suit declaring the petitioner as pattadar of the plaint schedule site and granted injunction restraining the defendants 2 to 6 in the suit from dispossessing the writ petitioner from the site while dismissing the claim for damages. The Mandal Revenue Officer who is arrayed as the 4th respondent herein was a party defendant No.2 in the suit. Now, the petitioner's grievance is that respondent Nos.1 to 5, under the political influence of the 6th respondent and without following the procedure under law, are trying to dispossess the petitioner from the land in question. Hence, the present writ petition is filed seeking appropriate directions.

This Court, on 05.07.2011, ordered Notice Before Admission and while enabling the official respondents to file counter affidavit, directed them not to evict the petitioner from the land in question until further orders.

In spite of the fact that four long years have passed, so far no counter affidavit has been filed by respondent Nos.1 to 5 denying the allegations made in the writ affidavit.

Having regard to the fact that the averments made in the writ affidavit remain uncontroverted in the absence of any counter affidavit, this Court has no reason to disbelieve those averments. In view of the facts and circumstances of the case and considering the small extent of Ac.0.01 cents of the subject land said to have been in possession

and enjoyment of the petitioner, this Court is inclined to dispose of the writ petition with the following direction:

“The respondents are directed to not to interfere with the peaceful possession and enjoyment of the petitioner over the land in an extent of Ac.0.01 cents in Sy.No.115/2 of Nayunipally village, Vetapalem Mandal, Prakasam District without following the due process of law”.

With the above direction, this writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petition, if any pending, shall stand disposed of as infructuous.

CHALLA KODANDA RAM, J

04.06.2015

bcj