

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.22809 of 2004

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ORDER:

This writ petition was filed aggrieved by the action of the respondent authorities in not assessing and paying damages/compensation for demolition of the petitioner's house bearing door No.1-8-1/5 at Peddapuram Village and Mandal, East Godavari District.

The Tahsildar, Peddapuram Mandal, filed a counter-affidavit wherein she stated that the petitioner was allotted the subject piece of land in T.S.No.1072 of Peddapuram in the year 1994 but thereafter, it came to light that the land belonged to the Police Department. The ownership certificate issued to the petitioner was accordingly cancelled in the year 1999. Aggrieved thereby, the petitioner filed Writ Petition No.7038 of 1999.

The said writ petition was disposed of by this Court on 04.10.2001. Perusal of the order passed in the said writ petition reflects that the learned Judge disposed of the writ petition in terms of the Division Bench judgment dated 03.02.1998 in Writ Petition No.20778 of 1997. The relevant portion of the Division Bench judgment was also extracted by the learned Judge and reads to the effect

that in the event the demolition took place in respect of Government property, the question of payment of damages would not arise and the occupants would only be entitled to remove the material used for construction. In the latter para of the order extracted, the Division Bench held that in cases of demolition, the loss caused would have to be assessed by the Engineer of the area concerned. This later observation would have no application to cases of demolition in Government property and the earlier part of the order would only apply. It is only in cases of demolition in properties belonging to the occupants that the later part of the order would apply and not to the properties of the Government or any other local self Government authorities.

In the light of the afore-stated order passed in the petitioner's earlier case, it is not open to the petitioner to now seek damages/compensation in respect of the building built by her in Government land which was thereafter demolished. She would only be entitled to take away the construction material, if the same is still available.

Subject to the above observation, the writ petition is dismissed.

Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY

KUMAR, J

11th MARCH, 2015.

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