

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF MAY
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.15010 of 2015

BETWEEN

Mahavir Pershad

... PETITIONER

AND

State of Telangana, rep. by its Principal Secretary and others

...RESPONDENTS

The Court made the following:

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ORDER:

Heard.

2. Petitioner herein claims to be absolute owner and possessor of premises bearing No.21-2-290 and 21-2-291 of Kabutar Khana, Lad Bazar, Hyderabad, and the title to the property is traced from the predecessors in interest of the petitioner under a sale deed of 1331 Fasli (1921 AD). Petitioner states that the tenants, who were occupying the said premises, were evicted by the petitioner vide proceedings in RCC Nos.390 and 391 of 2011 on the file of Rent Controller, City Small Causes Courts, Hyderabad, which was duly confirmed in appeals viz., R.A.Nos.12 and 13 of 2014 on the file of the Chief Judge, City Small Causes Courts, City Civil Courts, Hyderabad. One of the said tenants approached the Collector with an application alleging that petitioner is occupying the Government land and to take action against the petitioner. That appears to have been activated by proceedings before the Collector, Revenue Divisional Officer, and the Tahsildar, wherein endorsements were given by the Collector to get the encroachments removed immediately and report compliance. On such endorsements, the Tahsildar appears to have issued revenue summons to the petitioner. In response to that, petitioner has filed a reply together with copies of all the title documents. The Tahsildar merely forwarded a report to the Collector based on the documents produced by the petitioner and once again the Collector appears to have endorsed to remove the encroachments and report compliance. Aggrieved by such action and apprehending that petitioner would be dispossessed of the property, the present writ petition is filed.

3. On 28.05.2015 learned Government Pleader was required to get instructions. Learned Government Pleader today, on instructions, submits that whatever action is required to be taken, respondents would follow due process of law and would issue appropriate notice to the petitioner and follow the provisions of the Land Encroachment Act, 2005 or any other due process of law called upon in the matter.

4. It is evident that, as on today, there is no adjudication or statutory proceeding against the petitioner except the endorsements of the Collector and the Revenue Divisional Officer requiring the Tahsildar to remove the encroachments. Since the petitioner claims title and

possession from 1921 AD, matter requires detailed examination by competent authority either in view of the Land Encroachment Act or under any other enactment under which the respondents propose to take action against the petitioner. It is also well settled that any such action must be preceded by appropriate notices and opportunity for filing explanation and hearing before any order is passed against the petitioner. Since the learned Government Pleader states that due process of law would be followed, the same is recorded.

5. Writ petition is, accordingly, disposed of directing the respondents to follow due process of law, as briefly indicated in the order above, before taking any action against the petitioner. Pending initiation of any such proceedings, petitioner's enjoyment and possession of his property, referred to above, shall not be disrupted nor he shall be dispossessed in any manner.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

June 2, 2015

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