

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 7813 OF 2012

ORDER:

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Heard learned counsel for the petitioner, Standing Counsel for respondent No.1, Government Pleader for Revenue and Sri Md.Saleem, Standing counsel for respondent No.2. With the consent of all the parties, the main writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in trying to evict the petitioner from the house bearing No. 13-381, Indiranagar, Dharmavaram Town and Mandal, Anantapur District, as illegal arbitrary and violative of Articles 14, 19 and 300-A of the Constitution of India; and consequently direct the respondents not to evict the petitioner from the above said house.

The petitioner claims to be the owner and possessor of the house bearing No.13-381 at Indiranagar, Dharmavaram Town. It is stated that originally he purchased plot No.245 in Sy.No.488-4A of Dharmavaram Town through a registered sale deed bearing document No.1095/1995 dated 05.05.1995 from Srinivasulu and constructed a house after obtaining permission from the second respondent vide B.A.No.121/1999. Thereafter he also obtained electricity connection. While things stood thus, on 30.06.2010 a common eviction notice came to be issued by the railway authorities stating that about 1051 persons are in un-authorised occupation of the railway land and directed them to vacate the said land. Challenging the same, the present writ petition is filed

on the ground that no notice was issued to the petitioner though he is staying in the said house since last 20 years.

A counter came to be filed by the first respondent disputing the averments in the affidavit filed in support of the writ petition. According to him, though the petitioner claims to be in possession of the house bearing No. 13-381 at Indiranagar, but the persons who are in possession of the said property vacated the said premises and handed over the possession of the same to the railway authorities. That being the position, the question of giving a notice to the petitioner does not arise.

A perusal of the material placed before the Court would show that the persons who are alleged to have surrendered and vacated the premises were living in a bearing Nos.13-1-381 and 13-1-381/1 at Indiranagar. Whereas the number of the house where the petitioner claims to have been living is House No. 13-381 at Indiranagar. Learned counsel for the petitioner submits that he has nothing to do with the house bearing Nos. 13-1-381 and 13-1-381/1 and that his house number which has been furnished by the Municipality or the Department while issuing ration card is H.No.13-381.

But the fact remains that a common eviction notice is issued to all the residents including the petitioner. However, no individual notice was issued to the petitioner and no opportunity was given to him though he claims to be in possession of the house bearing No.13-381 for the last 20 years. As stated earlier, the petitioner paid property tax and electricity charges. Since, no opportunity was given to the petitioner to explain his case and as he was not aware of the common notice issued by the respondents, it can be held that principles of natural justice are

clearly violated. Hence, the writ petition is disposed of directing the petitioner to submit an explanation with all the documents in support of his claim within four (04) weeks from today and the first respondent shall pass orders in accordance with law, within eight (08) weeks from the date of submitting the explanation. Further, no coercive steps as per law shall be initiated till then. It is needless to mention that no further notice shall be given and these proceedings shall be taken as notice to the petitioner. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

15.09.2015
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