

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.19485 OF 2014

ORDER:

The petitioners pray for Mandamus declaring the action of respondents in interfering with the possession of petitioners in Houses bearing Nos. 7-55/1/14/1, 7-55/1/14, 7-55/11/9/A, 7-55/1/7/A, 7-55/1/14/2, 7-55/1/16, 7-62/2, 5-55/1/14/1, 7-55/1/13/A, 7-55/1/14, 7-55/1/18, 7-55/11/10 and 7-151/15 situated at Balasaraswati Nagar, Malkajgiri Municipality, Ranga Reddy District and causing damage to the houses or directing them to vacate the premises without following the procedure stipulated by law, as illegal and unconstitutional.

The case of petitioners is that one Komreli Gandaiah was the owner and possessor of Ac.0-09 gts. in Survey No.498/1, Ac.0-30gts. in Survey No.499/1, Ac.0.09 gts. in Survey No.510/1, Ac.0-28gts. in Survey No.488/1 and Ac.0-13gts. in Survey No.511/1 of Malkajgiri Municipality. The owner developed the land into house plots and the petitioners claim to have purchased from the owner through registered sale deeds. The admitted case of petitioners is that on the southern side of the colony the Railways acquired land in Survey Nos. 498/1, 499/1, 488/1, 510/1, 511/1 and the un-acquired land was sub divided into 498/2, 499/2, 488/2, 510/2, 511/2. The petitioners claim to be owners of small plots carved out from the un-acquired land. When the respondents tried to interfere with the possession and enjoyment petitioners, the petitioners filed O.S. No.1640 of 2006 in the Court of III Additional Junior Civil Judge, Ranga Reddy at

L.B.Nagar for perpetual injunction. On 15.09.2011, O.S.No.1640 of 2006 was decreed. The cause of action for filing the writ petition is two fold, viz., that the properties purchased by the petitioners are not covered by the land acquired by the Railways and that the respondents are under obligation to follow the procedure stipulated by law before evicting the petitioners.

The respondents filed counter affidavit and briefly referred to the reply is that through award dated 04.07.1967 the Railways acquired Ac.0-28gts. in Survey No.498, Ac.0-20gts. in Survey No.510 and Ac.0-26gts. in Survey No.511 from Komereli Gandaiah, Kishan Singh etc. The advance possession was given to Railways on 26.12.1963. The Railways/respondents claim that the property now claimed by the petitioners is part of the acquired land and the judgment in O.S.No.1640 of 2006 has given liberty to the Railway authorities to proceed against encroachers in accordance with law. The respondents rely upon the judgment of this Court in Writ Petition No.2692 of 2003 and batch. The respondents rely upon joint inspection report dated 01.08.2001, the detailed sketch acquired land and departmental instructions covered by Para 827 of I. R. W. M. and Board Guidelines dated 11.2.2008. The case of respondents is that the encroachments are in the railway land.

The petitioners complain against the interference with petitioners possession of houses bearing Nos 7-55/1/14/1, 7-55/1/14, 7-55/11/9/A, 7-55/1/7/A, 7-55/1/14/2, 7-55/1/16, 7-62/2, 5-55/1/14/1, 7-55/1/13/A, 7-55/1/14, 7-55/1/18, 7-55/11/10 and 7-151/15 at

Balasaraswati Nagar, Malkajgiri, Ranga Reddy District , without due process of law as highly arbitrary and illegal. The prayer is against the action of dispossession without recourse to law. The prayer of petitioners is to prevent the respondents from removing encroachments otherwise than in accordance with law. The respondents claim right and title to the property covered by award dated 04.07.1967 If the petitioners are in possession of the land acquired by Railways through award dated 04.07.1967, it is needless to observe that the respondents are required to follow the procedure under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short 'the Act') and either evict unauthorized occupation or remove constructions having regard to the limited prayer, the writ petition is disposed of with a direction that the respondents shall not interfere with the possession or demolish constructions in the house numbers referred to above except in accordance with law. The respondents are given liberty to issue notice within four weeks from today under the Act and receive explanation and locate the property covered by award dated 04.07.1967, conduct enquiry and pass orders. Till final orders are passed, status quo orders granted by this Court shall be in force. This Court is not expressing any view on the merits of the case.

The writ petition is disposed of. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT,

J

Date:17-03-2015

Stp