

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.27174 of 2009

Date: 27.02.2015

Between:

T.Purnachandra Rao, S/o. T.Subba Rao,
Aged about 65 years, Occu: Retired Employee,
R/o.H.no.2-12, 2nd Ward, Avanigadda,
Krishna district.

.. Petitioner

AND

The District Collector, Krishna District,
Machilipatnam and others.

.. Respondents

The Court made the following:

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ORDER:

This writ petition is instituted alleging that the respondents are illegally demolishing house bearing D.No.2-12 situated in R.S.No.299/1 of Avanigadda Village and Mandal, Krishna District without following due process of law and in violation of right vested in the petitioner under Article 300-A of the Constitution of India.

2. Petitioner avers that his father late Subba Rao having 0.15 cents of ancestral property in 2nd Ward of Avanigadda Village and the same was partitioned among his five brothers and accordingly, 0.03 cents fallen to the share of the petitioner along with small tiled house. The said partition took place in the year 1990 and ever since petitioner is in possession and enjoyment of the land. While so, all of a sudden on 09.12.2009 at about 4.00 P.M., Tahsildar of Avanigadda along with their staff and Police personnel of Avanigadda Police Station came to his house and started making identification lines through out the line. The identification marks were laid through their buildings. The reason for putting of such identification marks were not disclosed. Apprehending threat of demolishing of the property illegally, this writ petition is instituted.

3. This Court by order dated 14.12.2009, granted interim direction as prayed for.

4. Praying to vacate the interim order, respondent filed vacate petition. In the counter affidavit filed in support of the vacate petition, it is averred that Sy.No.36 is Government Canal Poramboke land and

certain persons illegally encroached the Government Poramboke land. Even though they were informed to vacate the illegal occupation and to restrict their occupation to the extent of land which they are entitled, they have not complied with. Accordingly, Notice under Section 7 of the Land Encroachment Act, 1905 was issued. Petitioner submitted his application together with documentary evidence. On a verification of the documentary evidence, it was noticed that his house pertains to R.S.No.299/1. Petitioner was informed to get the land surveyed covered by the registered sale deed under Survey and Boundaries Act and confine physically to the land for which he is entitled and to vacate the encroached portion of the land voluntarily to avert proceedings. It is therefore contended that all the required legal formalities are followed, but petitioner has not complied with.

5. The other property owners in the same survey number filed W.P.No.26756 of 2009 and similar plea was raised on behalf of the petitioners and on behalf of the respondents. While taking on record the stand of the respondents, this Court granted liberty to the respondents to proceed in the matter as noted therein and to pass appropriate orders within a period of three months from the date of receipt of a copy of that order. The Court further ordered that until final orders are passed, the interim orders granted by the Court should be in force.

6. Having regard to the orders passed by this Court concerning the same survey numbers and same properties, this Writ Petition is also disposed of. The stand of the respondents is taken on record. As notice was already issued under Section 7 of the Land Encroachment Act, the respondents are free to proceed in the matter and pass orders within a period of three months from the date of receipt of a copy of this order. Till final orders are passed, the interim order granted by this Court on 14.12.2009 shall be in force.

Miscellaneous petitions if any pending in the writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

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