

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.23847 of 2012

Dated 09.07.2015

Between:

Elamarthy Uma Maheswara Rao

... Petitioner

and

1.The Dy.Executive Engineer,
Drainage Sub-Division, Bhimavaram,
WG.District and 3 others.

...Respondents

Counsel for the petitioner: Mr.Naram Nageswara Rao

**Counsel for the respondents 1 to 3: AGP for Irrigation & CAD
(AP)**

Counsel for respondent No.4: None appeared

The Court made the following:

Order:

This Writ Petition is filed for a Manadmus to declare the action of the respondents, in seeking to evict the petitioner from house bearing No.7-7-36 at the right bank of Miramiyakodu drain, opposite to Agricultural Market Yard, 4th Ward, Narasayya Agraharam Area, Bhimavaram Municipal Area, as illegal and arbitrary.

The petitioner has not disputed the fact that he has constructed a house over the public property. The only redeeming feature for the petitioner appears to be that the Municipality has assigned house number and has been collecting house tax from the petitioner.

In the counter-affidavit filed by respondent No.1- Deputy Executive Engineer, Drainage Sub-division, Bhimavaram, West Godavari District, it is *inter alia* stated that the petitioner has encroached on the right bank of Miramiyakodu minor drain and constructed a house on the inner edge of the drain bank and that he is also filling the earth for further extension by throwing wastage into the drain, thereby, hampering free flow of water at the place of encroachment. It is further stated that the farmers, water users' association and public have been agitating for eviction of the encroachers and improvement of drain; that the works of improvement of Miramiyakodu minor drain from KM 0.000 to 1.900 will be taken up during the closure period of the year 2013 under Delta Modernization Programme and that unless encroachments are removed, the works cannot be taken up.

Along with the counter-affidavit, the respondents have filed photographs, which prove their averment that the petitioner has encroached upon the inner side of the

drain and that such encroachment causes hindrance to free flow of water.

On these undisputed facts of the case, the petitioner is not entitled to any relief. However, as the petitioner is living in the house constructed by him, his immediate eviction would cause serious prejudice to his interests. In order to enable the petitioner to shift his residence to some other place, he is given three months' time. If the petitioner does not vacate the subject house within the period of three months, the respondents shall be free to evict him and take over possession of the same in accordance with law.

Subect to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, interim order, dated 03-08-2012, is vacated and WPMP.No.30464 of 2012, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 9th July, 2015
LUR