

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1667 OF 2015

ORDER

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This writ petition is filed for a writ of mandamus declaring the action of the 3rd respondent in interfering with the peaceful possession and enjoyment of the petitioners' houses situated at survey No.11/3A-1, Bharathnagar, Visakhapatnam, as illegal and arbitrary and for a consequential direction to the 3rd respondent not to interfere with the peaceful possession and enjoyment of the petitioners' houses.

The case of the petitioners is that they have occupied the land of the 3rd respondent in Sy.No.11/3A-1, Bharathnagar, Visakhapatnam and they are in peaceful possession by raising houses in small extents of 30 to 90 sq.yards to the knowledge of the public at large and also to the officials of the 3rd respondent. While so, the 3rd respondent authorities went to the petitioners' houses on 02.01.2015 and threatened the petitioners to vacate the houses, otherwise, they will demolish the houses highhandedly. In pursuance to the same, petitioners made a representation dated 05.01.2015 to the 3rd respondent seeking to provide financial assistance for constructions of pucca houses and also requested not to evict them from their houses. Again on 07.01.2015, when the 3rd respondent authorities threatened the petitioners for vacating their houses, they once again made a representation on 09.01.2015. Once again on 24.01.2015, the 3rd respondent authorities threatened the petitioners to vacate the houses immediately. They further submit that Government issued G.O.Ms.No.577 dated 17.09.2009 by extending a scheme namely Rajiv Awas Yojana for slum dwellers and urban poor and the Government of India also extends its support under

JNNURM to the states that are willing to assign property rights to the people who are living in the slum area. Though the Government issued the above G.O., the 3rd respondent authorities are not extending the said benefit, besides they are threatening the petitioners to vacate the houses. Aggrieved by the same, the present writ petition is filed.

Heard the learned counsel for the petitioners.

Learned Standing Counsel for the 3rd respondent submits that the petitioners have encroached the approved layout plan ie., L.P.36/69 and that the owners of the said plot filed W.P.No.24205 of 2010 and this Court directed the Corporation to restore the road occupied by the petitioners. As such, action has been initiated. He also submits that they are taking steps for allotment of constructed houses to the petitioners under JNNURM scheme

In the instant case, petitioners themselves have admitted that they have encroached the land of 3rd respondent. It is stated by the learned Standing Counsel for the 3rd respondent that the petitioners have occupied the road in the lay out and this Court has directed to remove the said encroachments in W.P.No.24205 of 2010. As such, they initiated action against the petitioners. When once it is admitted that the land belonging to the 3rd respondent is occupied by the petitioners, it is for the 3rd respondent to take appropriate action. More so, when this Court has directed to remove the encroachments, it cannot be said that the action of the 3rd respondent corporation as illegal. Further, the roads in the approved lay out vests in the 3rd respondent Corporation. In view of the same, I do not see any merit to entertain the writ petition. Hence, the writ petition is dismissed. However, petitioners are at liberty to make an application to the 3rd respondent for allotment of houses under

JNNURM scheme and thereafter the 3rd respondent may consider the same and take steps for allotment of houses to the petitioners as per scheme, if they are found eligible for the same. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER

REDDY,J

Date: 02.02.2015

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