

THE HON'BLE SRI JUSTICE M. SATYANARYANA MURTHY

WRIT PETITION NO.10769 OF 2005

ORDER:

This writ petition is filed challenging the action of the respondents in making an attempt to demolish the house bearing D.No.25/42-47 constructed in an extent of 2 cents of land, in Sy.No.2025 of Nellore Bit-I, SBI Colony, without following due process of law and further sought to issue a *Writ of Mandamus* directing the respondents not to demolish the house of the petitioner without following due process of law.

It is the case of the petitioner that land of an extent of 2 cents of house site in Sy.No.2025 of Nellore Bit-I, SBI Colony of Nellore Town was assigned to him by the then Tahsildar vide proceedings RC.No.693/81 dated 05.11.1981. Later, the petitioner raised an asbestos sheet roofed structure and is in possession and enjoyment of the said property without any obstruction from anybody.

While the matter stood thus, in the year 1997, the respondents made an attempt to evict the petitioner without following due process of law. Thereupon, the petitioner filed W.P.No.3191 of 1997 against the Executive Director, Scheduled Caste Corporation, Nellore as well as the Mandal Revenue Officer, Nellore. The said writ petition was disposed of by an order dated 11.06.1997 stating that the petitioner shall be entitled to continue in possession of the premises by virtue of assignment made in his favour and it was also directed that the respondents shall not dispossess the petitioner from the site in question, than in accordance with law.

While the matter stood thus and the petitioner was continuing in possession, in pursuance of the orders passed by this Court in W.P.No.3191 of 1997 dated 11.06.1997, the third respondent/Nellore Municipal Corporation again made an attempt to interfere with the

peaceful possession and enjoyment of the property and to dispossess the petitioner from his property, without issuing any notice prior to such an attempt.

In the course of the attempt, the respondents men damaged the building, but their illegal act was resisted by the petitioner. Again on 27.04.2005, the third respondent subordinates came and orally informed that the petitioner has to vacate the premises, otherwise the building would be demolished. Hence, the petitioner approached this Court having no other alternative to restrain the respondents from interfering and disposing the petitioner from his property.

No counter affidavit was filed on behalf of the respondents.

During the course of argument, learned counsel for the petitioner Sri P. Sridhar Reddy contended that this is the second round of litigation. Once, the Executive Director, Scheduled Caste Corporation, Nellore as well as the Mandal Revenue Officer, Nellore made an attempt to dispossess the petitioner without following due process of law. After that, the third respondent made an attempt to dispossess the petitioner without giving any prior notice, as required under the Municipal Corporation Act and threatened to dispossess him by the first respondent and their men, in case, the petitioner did not vacate the premises. Hence, the petitioner approached this Court for appropriate efficacious remedy.

Learned Government Pleader for Nellore Municipal Corporation Sri K. Pandu Ranga Rao fairly conceded that the respondents would not dispossess the petitioner from the premises bearing D.No.25/42-47 constructed in an extent of 2 cents of land, in Sy.No.2025 of Nellore Bit-I, SBI Colony, Nellore Town, without following due process of law.

In view of the assurance given by the learned Government Pleader, the respondents are restrained from dispossessing the petitioner from the premises in question, except by following due

process of law.

Accordingly, the writ petition is disposed of.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

JUSTICE M. SATYANARYANA MURTHY

Dated 08.07.2016

SP