

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

**WRIT PETITION No.27142 of 2016**

**ORDER:**

This writ petition is filed under Article 226 of Constitution of India seeking a writ of mandamus declaring the action of the respondents to dispossess the petitioner from her land in an extent of Acs.2.00 in Survey No.99/20 situated at Gangapur Village, Rebbena Mandal, Adilabad District, as illegal and arbitrary.

2. Heard the learned counsel for the petitioner, and learned Government Pleader for Forests and Learned Government Pleader for Revenue (Telangana).

3. The petitioner claims that she is the owner of land in an extent of Acs.2.00 in Survey No.99/20 of Gangapur Village, Rebbena Mandal, Adilabad District. It is the case of the petitioner that the revenue officials issued pattadar pass book and title deed in her favour after following the due procedure. The grievance of the petitioner is that the Forest officials are making attempts to dispossess her from the said land.

4. Learned Government Pleader for Forests submits that the land in question belongs to the Forest Department and not to the Revenue Department.

5. Whether the land in question belongs to the Revenue Department or Forest Department is purely a disputed question of fact which cannot be gone into while exercising jurisdiction under Article 226 of the Constitution of India. A perusal of the record *prima facie* reveals that the petitioner has been in possession and enjoyment of the land in question. Even assuming but not conceding that the land in question belongs to the Forest Department, it has no right whatsoever to evict the petitioner without following due process of law.

6. It is a settled position of law that a person, who is in possession

of the land, though an encroacher, cannot be dispossessed except by due process of law (see **East India Hotels Ltd v Syndicate Bank**<sup>[1]</sup>, **Meghmala v G.Narasimha Reddy**<sup>[2]</sup> and **Maria Margarida Sequeria Fernandes v Erasmo Jack De Sequeria (Dead) through L.Rs**<sup>[3]</sup>).

7. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, the respondents are hereby directed not to dispossess the petitioner from the land in an extent of Acs.2.00 in survey No.99/20 of Gangapur Village, Rebbena Mandal, Adilabad District, without following due process of law.

8. With the above direction, the writ petition is disposed of. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

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**T.SUNIL CHOWDARY, J.**

Date:12.08.2016

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<sup>[1]</sup> 1992 Supp (2) SCC 29

<sup>[2]</sup> 2011 (2) ALT 8 (SC)

<sup>[3]</sup> AIR 2012 SC 1727