

**HON'BLE SRI JUSTICE S.V.BHATT**  
**W.P.No.15714 OF 2004**

**ORDER:**

The petitioners pray for the following relief:

“.....this Hon'ble Court may be pleased to issue an order, direction or writ, more particularly one in the nature of mandamus declaring that the action of the first respondent in threatening to evict the petitioners and other landless poor living in hutments on S.No.2023/2A & 2023/2B, Tilaknagar, Divipalem, Gudur Mandal without notice and without passing orders on the application for house sites made on 13/11/1999, is arbitrary, and unlawful and further directing the respondents to consider and pass orders on the said application for house sites, taking into consideration also the willingness of the present petitioners to pay for the house site at market value, before taking any action against the said hutment dwellers and pass .....”

The 1<sup>st</sup> respondent filed counter affidavit and the operative portion of the counter affidavit reads thus:

“I submit that I deny the various averments made in the writ affidavit which are misconceived and served and the petitioners cannot claim the Government lands as the matter of right and none of the petitioners are eligible to claim patta i.e., the house site pattas since they are ineligible.

The details of the petitioners is as follows:

| Sl. No. | Name of the petitioner                     | Social Status | Property held by the petitioner                                                                                         | Remarks                            |
|---------|--------------------------------------------|---------------|-------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| 1       | Nanbimandalam Lokesh, s/o Venkata Subbaiah | Kshatriya     | His father is an Employee in Cooperative Central Bank, having pucca building, joint family member & above property line | Ineligible for grant of house site |
| 2       | Udatha Geetha, w/o Chengal Rao             | Yadava BC     | Having one cool drink shop and one STD booth. Having own houses in Tilak Nagar, above property line                     | Ineligible for grant of house site |
| 3       | Vendoti Krishnamma w/o Bala Krishnaiah     | Chakali BC    | Having own house in Tilak Nagar and lands at Mekanur village of Gudur Mandal, above poverty line                        | Ineligible for grant of house site |

|   |                                       |               |                                                                                                        |                                          |
|---|---------------------------------------|---------------|--------------------------------------------------------------------------------------------------------|------------------------------------------|
| 4 | Palem<br>Padma, w/o<br>Late<br>Ramesh | Chakali<br>BC | She is not the<br>resident of Tilak<br>Nagar area.<br>Residing at<br>Valayanandapuram<br>of Gudur Town | Ineligible<br>for grant of<br>house site |
|---|---------------------------------------|---------------|--------------------------------------------------------------------------------------------------------|------------------------------------------|

In reply to paragraphs – 4, 5 and 6 of the petitioner's affidavit, I submit that it is true that originally the land was allotted to the Labour Department and after construction of the quarters to the Workers of the Workman Acs 1.50 cents were not utilized by the Labour Department. I deny the various averments that the petitioners have no houses as already stated supra the petitioners are owning pucca houses. The first three petitioners are above the poverty line persons and the 4<sup>th</sup> respondent is not a resident of the Tilak Nagar area but she is the resident of Valayanandapuram area and therefore I deny the averments made in paragraphs 5 and 6. The petitioners have not occupied the land in the land in the year 1999 and therefore recently i.e., about 15 days it is prior to the filing of the writ petition and they have encroached on to the land and therefore, I deny the claim made by the petitioner that they are in possession of the lands from the year 1999 and these averments are made only for the purpose of filing the present affidavit.

In reply to paragraph 7 of the petitioner's affidavit, it is submitted that the petitioners might have made a representation to the then Hon'ble Member of the Legislative Assembly but the said representation was never submitted in the office of the Mandal Revenue Officer, Gudur and no such representation is pending in the office of the respondents and, therefore, I deny the averments made in paragraph 7.

I deny the averments made in paragraph – 8 of the affidavit I submit that since the petitioners have not put up any hutments in the year 2001 and no representation dated 13.11.1999 is pending with the respondents. The petitioners never raised any huts and no power connection has been given by the Electricity Department to the huts as claimed by the petitioners so far as the land in S.No.2023/2A & B, the photographs filed in support of the writ petition existing in the land in S.No.2023/2A & B.

I deny the averments made in paragraph – 9 since no officer from the respondents have visited the land on 11.08.2004 and there was never any order as alleged by the petitioners for demolition of the houses of the

petitioners as already stated supra there are no houses in the left over land i.e., Ac.1.50 cents in S.No.2023/2A & 2B and there is no representation pending the mere issuance of Telegram by the petitioners does not prove their possession of the land, therefore, I deny the averments made in this paragraph.

In any reply to paragraph – 10 it is respectfully submitted that the petitioner makes a proper application for allotment of house site patta or House, their cases will be considered independently awaiting their eligibility and subject to availability of the land and therefore they cannot claim as a matter of right the land in S.No.2023/2A & 2B it is required for larger public interest of construction of Mandal Level Stock Point this land has been identified for the said purpose and therefore, absolutely there are no merits in the writ petition and it is liable to be dismissed.

I submit that after filing of the writ petition the petitioners have encroached on to the land in S.No.2023/2A & 2B and therefore the District Collector on 17.01.2005 directed Mandal Revenue Officer, Gudur to evict the encroachments in the said survey number vide Rc.E8.3805/2004 and in view of the pendency of the writ petition, no further action has been taken.”

The learned counsel Ms.Vasudha Nagarajan, representing petitioners, fairly states that, as the petitioners are not in touch with her office, she is unable to get further information on the stand taken by respondents and prays for time.

This Court, after perusing the writ prayer, annexures filed along with writ petition and the stand of respondents in the counter affidavit, *prima facie* is of the view that the writ petition is premature and the issue cannot be considered on mere assertion of petitioners. The petitioners, if, are eligible and the land is available, they can always make independent application and the authorities are required to consider these applications in accordance with the extant Government Orders.

With the above observation, the writ petition is disposed of.

There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, also stand closed.

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***S.V.BHATT, J***

Dt.22.08.2016

*Lrkm*