

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.23589 OF 2016

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ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the action of the respondents in threatening to demolish the houses of the petitioners situated in R.S.No.350 of Veeravalli Village, Bapulapadu Mandal, Krishna District and dispossessing them from their houses, highhandedly and by using police force and without following due process of law as illegal, arbitrary and violation of principles of natural justice and violation of Articles 14 and 21 of Constitution of India and consequently to direct the respondents not to demolish and dispossess the petitioners from their houses without following due process of law.

Heard the learned counsel for the petitioners, the learned Government Pleader for Panchayat Raj and Rural Development, the learned Government Pleader for Home and the learned Government Pleader for Revenue.

The contention of the learned counsel for the petitioners is that the petitioners' grand father had occupied the Government poramboke land in an extent of Ac.0.03 cents in R.S.No.350 of Veeravalli Village and constructed a thatched house. It is the further case of the petitioners that the Gram Panchayat allotted house Nos.4-44/1 and 4-44.

A perusal of the record reveals that the petitioners have been paying the house tax to the Gram Panchayat. The material placed before this Court clinchingly establishes that the petitioners have been in possession and enjoyment of the land in an extent of Ac.0.03 cents in R.S.No.350 of Veeravalli Village, Krishna District. The apprehension of the petitioners is that the third respondent may dispossess the petitioners at the behest of the third parties.

It is a settled proposition 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^[1], Meghmala v G.Narasimha Reddy^[2] and Maria Margarida Sequeria Fernandes v Erasmo Jack De Sequeria (Dead) through L.Rs^[3]).

If the property in dispute is a Gram Panchayat property, respondent No.6 - Gram Panchayat has to follow the procedure contemplated under Section 58 of the A.P. Panchayat Raj Act in order to evict the petitioners from the property.

Having regard to the facts and circumstances of the case and also the principle enunciated in the decisions cited supra, the respondents are hereby directed not to evict the petitioners from the land in an extent of Ac.0.03 cents in R.S.No.350 of Veeravalli Village, Krishna District without following due process of law.

Accordingly, the Writ Petition is disposed of. No costs.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 21.07.2016

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^[1] 1992 Supp (2) SCC 29

^[2] 2011 (2) ALT 8 (SC)

^[3] AIR 2012 SC 1727