

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.11307 OF 2016

ORDER:-

This Writ Petition is filed by the petitioners questioning the Notice No.34V, dated 29.03.2016 issued by the 3rd respondent-Assistant Executive Engineer, Vinjaram Section (I&CAD), Kaikalur.

The case of the petitioners is that they are the owners of the land adjacent to the Irrigation Canal of Kaikalur and notices have been issued alleging that they have encroached the irrigation land of Kikaluru Canal. The authorities without issuing any proceedings and without following due process of law are interfering with their peaceful possession and enjoyment of their possession. To establish their possession over the property, the petitioners have filed the House Tax Demand Notices issued to them apart from filing the electricity bills.

Learned Government Pleader submits that due process of law would be followed while evicting the petitioners.

The fact that the petitioners came to be issued impugned notice would confirm that they are in possession of the land, which the petitioners claim to be their land. On the other hand 3rd respondent claims the same to be irrigation land. Even assuming for the argument sake that it is the land belonging to the Irrigation Department and is likely to cause damage to the Kikalur canal, the eviction of the petitioners cannot be by simple issuance of letter by the 3rd respondent. However, the petitioners also cannot claim absolute right if they are otherwise squatting on the public property especially on a canal bund. In the circumstances, the respondent authorities shall not evict and disposes the petitioners without following due process either under the Land Encroachment Act or any other Act, till such time as proper proceedings are initiated.

With the above direction, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE CHALLA KODANDA RAM

Date:06.04.2016.
SSV