

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION NO.28750 OF 2016

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking writ of mandamus declaring the action of the respondents in trying to dispossess the petitioners from the shops as illegal and arbitrary.

2. Heard the learned counsel for the petitioners, learned Government Pleader for Revenue representing respondent Nos.2 and 5, learned Government Pleader for Panchayat Raj representing respondent Nos.1, 3 and 6, learned Government Pleader for Roads & Buildings representing respondent No.4 and Sri Ravi Cheemalapati, learned Standing Counsel representing respondent No.7.

3. It is the case of the petitioners that they occupied the vacant land in Survey No.91/1 situated at Budarayavalasa Village, Merakamudidam Mandal, Vizianagaram District. It is the further case of the petitioners that they have constructed shops in the said place long back. The apprehension of the petitioners is that the respondents may evict the petitioners from the said shops.

4. A perusal of the record, *prima facie*, reveals that the petitioners have been in possession and enjoyment of the shops in question. Even assuming, but not conceding, that the petitioners have encroached the land of the respondents, the respondents are not entitled to evict the petitioners without following due process of law. 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**^[1], **Meghmala v G.Narasimha Reddy**^[2] and **Maria Margarida Sequeria Fernandes v Erasmo Jack De Sequeria (Dead) through L.Rs**^[3]).

5. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited above, the respondents are hereby directed not to evict the petitioners from the shops situated at Survey No.91/1, Budarayavalasa Village, Merakamudidam Mandal, Vizainagaram District without following due process of law.

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

(T.SUNIL CHOWDARY, J)

26th August 2016
RRB

[\[1\]](#) 1992 Supp (2) SCC 29

[\[2\]](#) 2011 (2) ALT 8 (SC)

[\[3\]](#) AIR 2012 SC 1727