

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION No.9451 of 2004

ORDER:

This writ petition is filed to declare the action of the respondents to demolish the houses bearing Nos.24-1040, 24-913, 24-1040/1, 24-1061/1, 24-513, 24-1090, 24-1588 respectively situated at Arundathi Nagar, Jawahar Nagar Grampanchayat, Shameerpet (M), Ranga Reddy District, without following due process of law as illegal and to issue a Writ of Mandamus against the respondents.

02. The petitioners are occupants of the said land and raised pucca constructions, for which the municipality assigned door numbers, and they are in possession. While the matter stood thus, without following due process of law, the respondents are trying to demolish the house bearing Nos.24-1040, 24-913, 24-1040/1, 24-1061/1, 24-513, 24-1090, 24-1588 respectively situated at Arundathi Nagar, Jawahar Nagar, Grampanchayat, Shameerpet (M), Ranga Reddy District. It is also contended that the petitioners are entitled to get regularization of their occupation.

03. No counter is filed by the respondents.

04. As seen from the allegations made in the writ petition, the petitioners are in occupation of different extents of land in Jawahar Nagar Grampanchayat, Shameerpet (M), Ranga Reddy District, raised pucca constructions in the said site and they are in possession. Their houses were assessed to taxes by Grampanchayat.

05. Heard Sri. T. Venkata Raju Goud, learned counsel for the petitioners and the learned Government Pleader for Revenue for the respondents.

06. The undisputed fact is that the petitioners have raised pucca constructions. The only contention of the petitioners before this Court is that they cannot be evicted without following due process of law and such demolition, if any, is illegal.

07. No doubt, even the encroacher cannot be evicted

highhandedly except by due process of law. The person in possession is entitled to protect his possession till he is duly evicted by due process of law. Therefore, as long as the petitioners are in possession and enjoyment of the property, they are entitled to protect their possession, though their possession is illegal as encroachers. In any view of the matter, to afford reasonable opportunity to the petitioner, a notice is required to be given before taking any action for removal of constructions and to evict the petitioners from the said site in their occupation, to avoid violation of principles of natural justice.

08. Therefore, the respondents are directed not to demolish the houses bearing Nos. 24-1040, 24-913, 24-1040/1, 24-1061/1, 24-513, 24-1090, 24-1588 respectively situated at Arundathi Nagar, Jawahar Nagar Grampanchayat, Shameerpet (M), Ranga Reddy District, till they are evicted by due process of law.

09. The petitioners also claimed a direction against the respondents to regularize their unauthorized constructions, but the same cannot be granted since the said site admittedly belongs to the Grampanchayat and it is left open to the petitioners to approach authorities concerned with a representation to regularize their unauthorized constructions, if permissible, and on submission of their representation, the authorities concerned may pass appropriate orders, in accordance with law.

10. With the above direction, the writ petition is disposed of. No costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 26.02.2016

BV