

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.30553 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to issue a writ of mandamus declaring the action of respondent No.3 in threatening the petitioners to vacate their houses as illegal and arbitrary.

2. Heard Sri Gandham Bhaskar, learned counsel appearing for the petitioners, and Sri A.Sreekanth Reddy, learned Standing Counsel appearing for respondent No.3.

3. It is the case of the petitioners that they have purchased the house bearing No.3-259 (old number) 3-433 (new number) in Survey No.227 situated in Bazaar Street, Ward No.3 of Sri Kalahasthi Town for a sum of Rs.3,00,000/- from one T.V.Hemadri under a registered sale deed, dated 6.2.2010, *vide* document No.284/2010. Petitioner No.2 purchased a house bearing No.3-434 in Survey No.227 situated in Bazaar Street, Ward No.3 of Sri Kalahasthi Town for a sum of Rs.5,00,000/- from one Krishna Kumari, Adimulam Prasuna and Pulicherla Saradadevi under a registered sale deed, dated 15.4.2013, *vide* document No.1344/2013. Petitioner No.2 also purchased a house bearing No.3-433-1 in Survey No.227 situated in Bazaar Street, Ward No.3 of Sri Kalahasthi Town for a sum of Rs.4,10,000/- from one P.S.Ravi Babu and one P.R. Harish under a registered sale deed, dated 4.12.2014, *vide* document No.4300/2014. The petitioners have been in possession and enjoyment of the said houses since the date of purchase. It is the case of the petitioners that they

have been paying municipal taxes to the municipal authorities vide assessment Nos.4433, 1896 and 1214. The apprehension of the petitioners is that respondent No.3 may take coercive steps and demolish their houses under the guise of extension of the temple area.

4. The apprehension of the petitioners is not supported by any documentary evidence. Sri A.Sreekanth Reddy, learned Standing Counsel appearing for respondent No.3, on instructions, in all fairness, submitted that as on today, there is no proposal for extension of the temple area. He further submitted that the respondents will follow the procedure contemplated under law while extending the temple area.

5. 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).

6. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, the respondents are hereby directed not to dispossess the petitioners from the houses in question without following the due procedure.

7. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

¹ 1992 Supp (2) SCC 29

² 2011 (2) ALT 8 (SC)

³ AIR 2012 SC 1727

8. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE T.SUNIL CHOWDARY

Date:14.9.2016
AMD



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