

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.26957 of 2009

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India assailing the alleged action of the respondents 2 and 3 in proceeding with the demolition of the premises of the petitioner bearing door No.57-1, Mutyalapeta, Railway Station Road, Gudur Municipal Area, SPSR Nellore District.

Heard learned counsel for the petitioner and learned Government Pleaders for Roads and Buildings and Revenue for respondents, apart from perusing the material available before this Court.

The petitioner herein claims to be the absolute owner and possessor of the building bearing door No.57-1, having purchased the same vide registered sale deed, dated 01-10-1981 from one S. Lakshmi Kanthamma. It is further stated in the writ affidavit that ever since the date of purchase the petitioner herein has been in possession and enjoyment of the subject property. It is further stated in the affidavit filed in support of the writ petition that the revenue authorities started demolishing the private property of the petitioner for widening the road from Sangam Theatre Junction upto

Railway Station Junction in the year 2007 and the 3rd respondent issued a notice under Section 7 of A.P. Land Encroachment Act on 11-11-2006, asking the petitioner to show cause. It is further stated that the petitioner herein has given a detailed explanation to the said notice and requested not to illegally demolish the structures. It is further alleged in the writ affidavit that without considering the said explanation, the 3rd respondent with the police came to the petitioner premises and high-handedly demolished the Verandah on 03-05-2007 and due to which the petitioner was dispossessed of Verandah site admeasuring 2 ankanams and 8 Sq. feet, which prompted the petitioner to institute O.S.No.106 of 2007 on the file of the Court of Senior Civil Judge, Gudur seeking recovery of possession of Verandah site and for payment of damages of Rs.40,000/- and also for permanent injunction against the State Government represented by the District Collector, SPSR Nellore District and the said suit is pending adjudication.

The complaint in the present writ petition is that the 3rd respondent, on the directions of the 2nd respondent, once again came to the petitioner's site on 04-12-2009 and intimated the petitioner that they would be demolishing some portion of the petitioner's property.

In the above background, pleading in the manner indicated supra the present writ petition is instituted. This Court, while ordering *rule nisi* on 10-12-2009, granted interim direction in WPMP No.35115 of 2009, directing the respondents 2 and 3 not to demolish the structures of the petitioner's building bearing door No.57-1, Mutyalapeta, Railway Station Road, Gudur Municipal Area, SPSR Nellore District, without following due process of law.

No counter-affidavit is filed, resisting the writ petition.

In the interim order granted on 10-12-2009 in WPMP No.35115 of 2009, this Court safeguarded the interest of both the petitioner and respondents by directing not to demolish the structures of the petitioner's building while keeping it open for the respondents to proceed, in accordance with law. Therefore, this Court considers it appropriate to make the said interim order as final order in the writ petition and dispose of the writ petition.

For the aforesaid reason, the writ petition is disposed of, directing the respondents not to demolish the structures of the petitioner's building bearing door No.57-1, Mutyalapeta, Railway Station Road, Gudur Municipal Area, SPSR Nellore District. However, it is open for the respondent authorities to proceed, in accordance with law, after giving notice and

opportunity of being heard to the petitioner herein. There shall be no order as to costs.

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

A.V. SESA SAI, J

November 03, 2016

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