

**THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

WRIT PETITION No. 28567 of 2007

**ORDER:**

This writ petition filed under Article 226 of the Constitution of India calls in question the alleged action of the second respondent – Tahsildar in making attempts to dispossess the petitioners from the property bearing H.No.1-78 with appurtenant site in total admeasuring 302 Square Yards in Sy.No.190 and open house plot admeasuring 534 Square Yards in Sy.No.199 of Chandrugonda Village and Mandal, Kammam District.

Heard Sri Hari Sreedhar, learned counsel for the petitioners and learned Government Pleader for Social Welfare for the respondents.

According to the petitioners, they are wife and husband respectively and originally one Mr. Bodem Prakash Rao @ Prakasam was the pattadar and possessor of the land in Survey No.199 apart from the land in other survey number which was inherited by him. It is further stated that the land in Survey No.199 was sold by the said Bodem Prakasam in the year 1969 under sada sale deeds to different individuals for house sites and that on 05.09.1969, the petitioners purchased Ac.0.04 guntas and 50 square yards of house plot in Survey No.199, the boundaries of which are as under:

“East : Road

West : House Plot of first petitioner

North : House of Jinugu Immanuel

South: Remaining land of Bodem Prakasam  
(presently belonging to Bhanumathi)”

According to the petitioners, ever since the date of purchase, they have been in possession and enjoyment of the said property. It

is alleged in the writ petition that the subordinates of the second respondent in the guise of implementing the orders passed by the first respondent in LTR Case No.226/94/CHG dated 30.05.2005 came to the property of the petitioners and threatened to dispossess them from the house site admeasuring 534 square yards. In the above background, the present writ petition came to be filed.

On 31.10.2008, this Court in W.P.M.P.No.37326 of 2007 granted an order of *status quo* with regard to the possession of the petitioners over the above said property.

It is the submission of the learned counsel for the petitioners that at no point of time, the first respondent did not issue any notice of enquiry; that the land of the petitioners and the schedule land in LTR Case No.226/94/CHG are entirely different and that the action of the second respondent in seeking to dispossess the petitioners from their property in the guise of the order dated 30.05.2005 passed by the first respondent is illegal, arbitrary and impermissible. According to the learned counsel, the said action is violative of Articles 14, 21 and 300 of the Constitution of India.

On the contrary, it is submitted by the learned Government Pleader for Social Welfare that there is no illegality nor there exists any infirmity in the impugned action and the respondents are perfectly justified in passing the impugned order.

The information available before this Court manifestly discloses that on the complaint made by one Sri Bodem Venkateswarlu S/o. Gopalam, the provisions of A.P Scheduled Areas Land Transfer Regulation, 1959 were pressed into service by the first respondent – Agency Divisional Officer and an order of ejectment was passed against one Guduru Laxmaiah *vide* LTR Case

No.226/94/CHG on 30.05.2005. It is evident from the material available on record that the boundaries mentioned in Form-F attached to the impugned order and the boundaries as mentioned in paragraph 3 of the writ affidavit, which according to the petitioners are the boundaries of their property, are entirely different and distinct.

No counter affidavit is filed by the respondents, denying the averments made in the affidavit filed in support of the writ petition and in the direction of justifying the impugned action. Since there is no order, after enquiry, against the petitioners herein in respect of their property, this Court finds absolutely no justification on the part of the respondents in interfering with the possession and enjoyment of the petitioners in respect of their property. In the absence of any counter-affidavit, the averments in the affidavit filed in support of the writ petition are required to be taken as correct.

For the aforesaid reasons, the writ petition is allowed, declaring the action of the respondents in seeking to dispossess the petitioners from the property bearing H.No.1-78 with appurtenant site, admeasuring 302 Square Yards in Sy.No.190 and open house plot admeasuring 534 Square Yards in Sy.No.199 of Chandrugonda Village and Mandal, Kamam District, as illegal, arbitrary, without jurisdiction and violative of principles of natural justice. However, this order will not preclude the respondents from initiating action in respect of the property of the petitioners, in accordance with law.

As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

**A.V.SESHA SAI, J**

Date: 07.11.2016  
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