

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.33372 of 2016

ORDER:

This writ petition is filed under Article 226 of Constitution of India seeking a writ of mandamus declaring the action of respondents in trying to demolish the building of the petitioner, without giving any notice, as illegal and arbitrary.

2. Heard the learned counsel for the petitioner, learned Government Pleader for Panchayat Raj and Rural Development and learned Standing Counsel for Gram Panchayats.

3. The petitioner claims that he inherited an extent of ten (10) Ankanams in survey No.135/2, Ward No.6 of Anumasamudrampeta Village and Mandal, S.P.S.R. Nellore District and constructed a house. The sixth respondent-Gram Panchayat allotted assessment No.208 to the house of the petitioner. The case of the petitioner is that the sixth respondent, under the guise of widening the roads, is making attempts to demolish the house of the petitioner, even without issuing any notice to the petitioner.

4. It is not in dispute that the petitioner has been in possession and enjoyment of the house in question by paying necessary house tax to the sixth respondent. The respondents have no right whatsoever to demolish the building of the petitioner 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**

¹ 1992 Supp (2) SCC 29

Reddy² and Maria Margarida Sequeria Fernandes v Erasmo Jack De Sequeria (Dead) through L.Rs³).

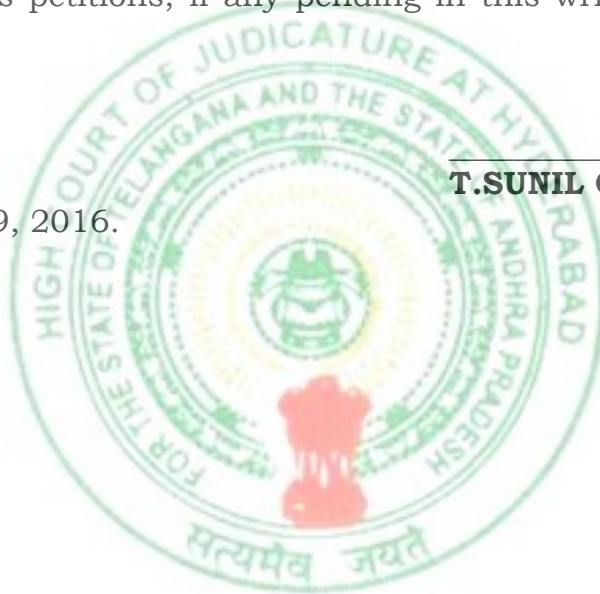
5. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, respondents are hereby directed not to demolish the house of the petitioner assessment No.208, situated in survey No.135/2, Ward No.6 of Anumasamudrampeta Village and Mandal, S.P.S.R. Nellore 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.

September 29, 2016.

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T.SUNIL CHOWDARY, J.



² 2011 (2) ALT 8 (SC)

³ AIR 2012 SC 1727