

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.34620 OF 2012

ORDER:

The petitioner claims to be owner of House No.15-172-4, Nehru Nagar, Society Colony, Guduru of SPSR Nellore District, the said house is constructed in an extent of 196 square yards and petitioner has not encroached. When the respondents threatened to demolish the house or dispossess petitioner, therefrom the instant writ petition has been filed.

On 06.11.2012, the following interim direction was granted in the writ petition:

"Post on 19.11.12 in M.L. "for Admission".

In the meanwhile, the respondents shall not dispossess the petitioner from the house in question. It shall however be open to them to initiate proceedings for acquisition of the same, in case it is a private property, or to take steps under the A.P. Land Encroachment Act, if the petitioner has encroached into any Government land."

The interim direction is subsisting

The 3rd respondent filed counter affidavit and has replied by separating the private property of petitioner from encroachment of Government land. It is stated that the authorities are required to remove the encroachment of petitioner from Government as it the encroached portion is required for Rail Over Bridge construction at the site.

The 3rd respondent has stated thus:

"In reply to Para No.6 it is submitted that now the above work kept in abeyance for want of funds as and when, funds are provided and work will be started and if the encroached portion is necessary for formation of Rail Over Bridge, action will be taken to demolish up to the encroached portion only as, notice U/s.7 & 6 has already been served on Pobothu Seetharavamma W/o.Late Subrahmanyam, as the house is in her name only."

The above paragraph refers to a notice said to have been issued to petitioner's mother. The order dated 06.11.2012, while protecting the possession of petitioner has given complete liberty to respondents either to initiate proceedings for acquisition of land or if the petitioner is found to be in unauthorized possession, take action under the A.P. Land Encroachment Act.

Having regard to undisputed facts and circumstances particularly, the stand taken by the 3rd respondent, I am satisfied that writ petition can be disposed of by directing that the possession and enjoyment of petitioner of encroached extent shall not be demolished or dispossessed except in accordance with the procedure stipulated by law.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions pending if any shall stand closed.

S.V.BHATT, J

Date:22.08.2016
Stp