

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.23725 OF 2016

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ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring that the action on the part of the respondents in attempting to demolish the bunks raised by the petitioners on land admeasuring 600 square yards in Survey No.134, adjacent to Agriculture Market, Vikarabad, Ranga Reddy District, without following due process of law, is highly illegal, arbitrary and in violation of Article 300 A of Constitution of India. Consequently, this Court may be pleaded to direct the respondents to follow due process of law in case they have any legal right over the bunks raised by the petitioners on land admeasuring 600 square yards in Survey No.134, adjacent to Agriculture Market, Vikarabad, Ranga Reddy District.

Heard the learned counsel for the petitioners and the learned Government Pleader for Agriculture and Smt. G.Neeraja Reddy, the learned Standing Counsel for Agricultural Market Committee.

The case of the petitioners is that they are absolute owners of a piece of land admeasuring 600 square yards in Survey No.134, adjacent to Agriculture Market, Vikarabad, Ranga Reddy District.

The contention of the learned counsel for the petitioners is that the petitioners have been running a pan shop as well as tailoring shop in the premises.

A perusal of the record reveals that the second respondent issued a notice on 16.06.2016 to conduct public auction of newly constructed mulgies. The contention of the petitioners is that the second respondent is making hectic attempts to evict the petitioners.

The learned Standing Counsel for the second respondent, in all fairness, submitted that the second respondent is not intending to evict

the petitioners.

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]).

Having regard to the facts and circumstances of the case and also the principle enunciated in the decisions cited supra, the second respondent is hereby directed not to evict the petitioners from the land admeasuring 600 square yards in Survey No.134, adjacent to Agriculture Market, Vikarabad, Ranga Reddy District without following due process of law.

Accordingly, the Writ Petition is disposed of. No costs.

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

T.SUNIL CHOWDARY, J

Date: 21.07.2016

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^[1] 1992 Supp (2) SCC 29

^[2] 2011 (2) ALT 8 (SC)

^[3] AIR 2012 SC 1727