

**HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

**WRIT PETITION No.28775 of 2016**

**ORDER:**

This writ petition is filed under Article 226 of the Constitution of India seeking a writ of Mandamus declaring the action of the respondents in trying to dispossess the petitioner from the land in question as illegal and arbitrary.

2. Heard the learned counsel for the petitioner, learned Government Pleader for Forest(Telangana), representing the respondents 1 to 4 and the learned Government Pleader for Revenue, representing respondent No.5(Telangana).

3. It is the case of the petitioner that her husband occupied the land admeasuring Ac.3.00 guntas in Survey No.1/1 of Potharam Shivar, Manubotulagadda Village, Khanapur Mandal, Warangal District long back. After the death of her husband, the petitioner herein is cultivating the land in question without interruption from anybody. The apprehension of the petitioner is that the respondent authorities are making hectic attempts to dispossess the petitioner from the land in question on the pretext of 'Harithaharam Programme' introduced by the State of Telangana.

4. The contention of the learned Government Pleader for Forest is that the petitioner unauthorisedly occupied the forest land, therefore, the writ petition itself is not maintainable.

5. Whether the petitioner is in possession of the forest land or some other land is purely a disputed question of fact, which cannot be gone into while exercising the jurisdiction under Article 226 of the Constitution of India. Admittedly, the petitioner did not produce

any document to prove her title over the land in question. If this Court expresses any opinion touching the merits of the main case, the same may cause prejudice to one of the parties to the proceedings. Even assuming but not conceding that the land in question belongs to the Forest Department, the respondents have no right whatsoever to evict the petitioner without following the due procedure. 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**<sup>[1]</sup>, **Meghmala v G.Narasimha Reddy**<sup>[2]</sup> and **Maria Margarida Sequeria Fernandes v Erasmo Jack De Sequeria (Dead) through L.Rs**<sup>[3]</sup>).

6. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, the respondents are hereby directed not to evict the petitioner from the land admeasuring Ac.3.00 guntas in Survey No.1/1, situated at Pocharam Shivar, Manubotulagadda village, Khanapur Mandal, Warangal District, without following due procedure.

7. With the above direction, this writ petition is disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

---

**T.SUNIL CHOWDARY, J**

**August 27, 2016.**  
Rns.

---

[\[1\]](#) 1992 Supp (2) SCC 29

[\[2\]](#) 2011 (2) ALT 8 (SC)

[\[3\]](#) AIR 2012 SC 1727