

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 25277 of 2016

ORDER:

By way of this Writ Petition, the petitioner seeks a direction to the respondents not to dispossess him from the land in an extent of Acs.4.05 cents in Survey No.1 situated at Thimmayapalem Village, Chejerla Mandal, SPSR Nellore District, pending consideration and disposal of the Revision Petition before the 2nd respondent Commissioner of Appeals.

The petitioner claims to be a landless poor person and that he has been in possession and enjoyment of the above-detailed property. While so, pursuant to the notice dated 18.03.2015 issued by the 5th respondent Tahsildar, Chejerla Mandal, directing his eviction, which, according to the petitioner, is not in conformity with the provisions under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905, he submitted the explanation on 30.03.2015. However, the 5th respondent has issued the notice dated 19.04.2015 under Section 6 of the Act. The petitioner has unsuccessfully challenged the said notice by preferring an Appeal on 07.05.2015 before the 4th respondent Revenue Divisional Officer, Atmakur, who directed his eviction from the subject land. Against the said order, a Revision has been filed before the 3rd respondent Joint Collector which has also received the same fate on 14.01.2016. A further Revision has also been filed along with an Application for stay before the 2nd respondent Commissioner of Appeals, but the same was not considered so far.

Learned Assistant Government Pleader for Revenue (Andhra Pradesh) would submit that the subject land is covered by a water

body and hence, the petitioner's case deserves no consideration at all.

At this stage, learned counsel for the petitioner fairly submits that if sufficient time is allowed, the petitioner will cut away the casurina trees standing on the subject land and deliver possession of the land.

From a bare perusal of the order dated 14.01.2016, it is evident that the 3rd respondent Joint Collector, taking cue from the judgments rendered by the Supreme Court in ***Hinch Lal Tiwari v. Kamala Devi*** (Appeal (civil) No. 4787 of 2001) and ***Jagpal Singh v. State of Punjab*** (Civil Appeal No. 1132 of 2011), wherein it has been categorically held that *the water resources shall be protected by the State Governments at any cost and all encroachments need to be removed*, dismissed the Revision directing eviction of the petitioner herein.

Therefore, in view of the law laid down by the Apex Court and also keeping in view the submission made by the learned Assistant Government Pleader that the petitioner has occupied the water body, two months' time is granted to the petitioner to vacate and deliver possession of the land in question.

It is needless to mention that if the petitioner fails to hand over the possession within the aforesaid time-frame, the respondent authorities are at liberty to take appropriate action in accordance with law, without any further reference to this Court.

With this, the Writ Petition stands disposed of. No costs.

Consequently, the miscellaneous petitions, if any shall also stand disposed of.

CHALLA KODANDA RAM, J

09th August 2016

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