

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.23476 of 2016

ORDER:

1 This Writ Petition is filed under Article 226 of the Constitution of India seeking writ of Mandamus, declaring the action of the respondent Nos.2 to 4 in trying to divert the existing renovated NSP Sub-minor canal through the petitioner's land in D.No.287-A & 293-B of Ponnekallu village of Tadikonda Mandal, Guntur District as illegal and arbitrary and consequently direct the respondents not to excavate any canal in the petitioner's land by diverting the existing course of renovated NSP sub-minor canal.

2 Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for the respondents.

3 The case of the petitioner is that he is having land to an extent of Ac.2-11 cents out of Ac.5-93 cents in D.No.287/A and out of Ac.1-16 cents in D.No.293/B of Ponnekallu village of Tadikonda Mandal, Guntur District and that there is a Sub-minor NSP canal nearby the land of the petitioner. The apprehension of the petitioner is that the respondent Nos.2 to 4 herein are making hectic attempts to change the alignment of the canal with an ulterior motive to take possession of his land all of a sudden, under the guise of execution of work, without following the procedure.

4 The learned Assistant Government Pleader submitted that the respondents are not intending to take possession of the land of the petitioner without following the due procedure.

5 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 Vs. Syndicate Bank***^[1], ***Meghmala and Others vs. G. narasimha Reddy and***

Others^[2] and Marla Margarida Sequeria Fernandes and Ors. Vs. Erasmo Jack De Sequeria (dead) Through L.Rs^[3].

5 Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, the respondent Nos.2 to 4 are hereby directed not to interfere with the land of the petitioner to an extent of Ac.2-11 cents out of Ac.5-93 cents in D.No.287/A and out of Ac.1-16 cents in D.No.293/B of Ponnekallu village of Tadikonda Mandal, Guntur District without following the due procedure.

6 With the above direction, this Writ Petition is disposed of. No order as to costs. As a sequel, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 20.07.2016
Kvsn

^[1] 1992 Supp (2) SCC 29

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

^[3] AIR 2012 SC 1727