

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5616 of 2017

ORDER:

This Writ Petition is filed seeking the following relief:

“.....to issue order direction more particularly one in the nature of writ of Mandamus declare the action of the respondents seeking demolition of the petitioner house bearing No.6-33, situated at Pydiparru, Tanuku Mandal, West Godavari District, A.P., as illegal, arbitrary and violative of Article 300A of the constitution of India and consequentially direct the respondent not to demolish the petitioner house bearing No.6-33, situated at Pydiparru village, Tanuku Mandal, West Godavari District, A.P., without following due process of law, without passing any orders against the petitioner and pass such other order or orders may deem fit and proper in the circumstances of the case.”

It is the case of the petitioner that he purchased the house site an extent of 150 sq.yards in Sy.No.4-2A of Pydiparru village of Tanuku Mandal, West Godavari District, vide Registered Document No.1602/1992, dated 12.05.1992 and constructed a house, after obtaining necessary permissions from the 4th respondent-The Commissioner, Tanuku Municipality, and has been paying the property tax regularly to the 4th respondent under Assessment No.1364. While the things stood thus, 3rd respondent-Divisional Engineer, R&B, Tanuku and his staff members came to his house and informed that a portion of his house is required for road widening, therefore, he demolished a portion of the house, in front of the house, for road widening. However, again the respondents want to demolish the entire house without any notice and without passing any order. It is further submitted that he has constructed the residential house in his private property and never encroached any

Government property and if at all his property is required for any public purpose the same can be acquired by way of initiating land acquisition proceedings and by paying compensation, but here the respondents neither issued any notice nor acquired his property seeking demolition of his house. Hence, the present Writ Petition.

Sri Nimmagadda Venkateswarulu, learned Standing Counsel for 4th respondent submits that as per the Survey Report dated 24.01.2017 submitted by the Mandal Surveyor, the petitioner has encroached on to the public road.

Having considered the rival submissions, even assuming for argument sake that the petitioner has encroached the public road, the respondents have to issue notice to the petitioner and after taking into consideration of the objections that may be raised by the petitioner, the respondents can demolish the encroachments, if any. Apart from that if any other excess land is required for laying the road, the respondents are at liberty to acquire the same by following due process of law. In such circumstances, the respondent authorities are restrained from demolishing the petitioner's house without following due process of law.

With the above observation, this writ petition is disposed of. There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J

Date:17.02.2017.
Ssv