

THE HON'BLE SRI JUSTICE M.S.K. JAI SWAL

WRIT PETITION No.19093 of 2005

ORDER:

This writ petition is filed for a mandamus, declaring the action of respondents in removing the structures and zinc sheds of the saw mill situated in Sy.No.488/2, Tirupati Rural Mandal, Chittoor District as illegal and arbitrary and consequently direct the respondents to pay compensation for the illegal removal of the zinc sheds and structures.

The case of the petitioner is that he is the absolute owner of the land admeasuring Ac.2.00, situated in Sy.No.488/2 of Tirupati Rural Mandal, Chittoor District having purchased the same under registered sale deed from his vendors in the month of March, 1992. Prior to 1992, his vendors, and thereafter himself, have been in continuous possession and enjoyment of the property in question without any hindrance by anybody. While the matter stood thus, the petitioner, through paper publication dated 24.06.2005, came to know that the 2nd respondent handed over the property in question to the 1st respondent for the purpose of construction of houses under Rajeev Gruhakalpa Scheme, without issuing any prior notice to the writ petitioner. Aggrieved by the same, the petitioner approached the civil court and filed a suit vide O.S.No.275/2005 on the file of the Principal Senior Civil Judge, Tirupati. While the civil proceedings are pending, the respondents entered into the property in question on 23.08.2005 and highhandedly removed asbestos sheets of the zinc shed and damaged the standing crop therein.

On behalf of the respondents no counter has been filed till date and no representation on their behalf.

The contention of the writ petitioner is that the lands in Sy.No.488/2, admeasuring Ac.2.00, situated at Tirupati Rural Mandal, Chittoor District originally belong to one Addanki Vatsalamma, who sold the same to K.Padmavathamma under registered sale deed, dated 03.04.1985. K.Padmavathamma in turn sold the said lands to one G.N.Mohan Prasad on 20.04.1991 under registered sale deed. The said Mohan Prasad in turn sold the said lands to P.Shankaraiah and from P.Shankaraiah, the writ petitioner purchased the said lands under registered sale deed, dated 16.03.1992 and established a saw mill therein. On 24.06.2005 through a news item, the petitioner came to know that the land on which the saw mill stands has been earmarked to the 1st respondent for a Government Scheme, known as RAjiv Gruhakalpa. Immediately, the writ petitioners filed a suit vide O.S.No.275/2005 on the file of the learned Principal Senior Civil Judge, Tirupati against respondents Nos.1 and 2 herein and also filed interlocutory application for injunction, however, the civil court did not grant any injunction in their favour.

The contention of the learned counsel for the petitioner is that this Court vide orders dated 14.09.2007, directed both the parties to maintain *status quo* until further orders.

The learned counsel for the petitioner submits that the respondents have tried to highhandedly dispossess the petitioner on 23.08.2005 and caused damage to the saw mill and also standing crop.

Right from the year 1985, there are registered instruments with regard to the property in question and the petitioner purchased the same under registered sale deed in March, 1992. More than 30 years thereafter only, in June, 2005, the State authorities have proposed to allot the said property to the beneficiaries under Government Scheme. However, no notice thereof has been served on the writ petitioner and no steps whatsoever have been taken to take the possession of the property from the petitioner over which he was in possession right from 1992 having established a saw mill.

This Court, vide order, dated 06.10.2005, directed both the parties to maintain *status quo* in so far as the possession of the property is concerned. Since the petitioner is in possession of the property right from 1992 till date, he cannot be evicted without following due procedure.

In that view of the matter, the Writ Petition is disposed of, directing the respondents not to evict the petitioner from the property in question, without following due process of law. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

Date: 29.08.2017
Dsr

M.S.K.JAI SWAL, J