

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.21155 OF 2017

ORDER:

The writ petition is filed under Article 226 of the Constitution of India seeking to issue a writ of Mandamus to declare the provisional notice in U.C. No.12/ 2017, dated 06.06.2017, by the 2nd respondent and the consequential action in contemplating to demolish the structures of the petitioner, as illegal and arbitrary and consequently, direct the respondents 2 and 3 not to interfere with the petitioner's possession and enjoyment over his site and building property bearing Municipal assessment No.1026004668 in revenue ward No.9, Block No.20, present ward No.6, in an extent of 242.81 square meters of the 2nd respondent Municipal limits.

Heard and perused the material available on record.

The case of the petitioner is that he is absolute owner and possessor of the above said property and he got that property through a registered gift deed, dated 16.08.1967 and since then he, along with his family, is in peaceful possession of the thatched house situated in the said property. While so, the sons and daughters-in-law of the petitioner applied for Indiramma Vayojana Scheme (House and toilets scheme) in the year 2013 to build small rooms with asbestos cement sheets, with the financial assistance from the Government, and they raised structure upto basement level. The neighbours of the petitioner, who are trying to occupy the plot of the petitioner, raised objections for the construction of the petitioner and filed petitions before the respondents 2 and 3, and that the 2nd respondent issued the impugned notice and thereafter, the officials of the respondents 2 and 3 approached the

petitioner and tried demolish the structures of the petitioner. Hence, this writ petition.

Learned counsel for the petitioner submits that the respondent-authorities are making hectic efforts to demolish the structures of the petitioner even without following the due process of law.

Learned Government Pleader for Municipal Administration submits that the allegations made by the petitioner are false and if really the officials of the respondents want to demolish the structures of the petitioner, they would follow the due process of law and appropriate steps would be taken in accordance with law.

In the light of the submissions made by the respective counsel and in view of the admitted facts of the case that the petitioner is in possession and enjoyment of the subject property, his possession shall not be interfered with by the respondent authorities without following the due process of law as enjoined whether under the Land Acquisition, Rehabilitation and Resettlement Act, 2013 or in any other law.

Accordingly, the writ petition is disposed of directing the respondents not to interfere with the possession and enjoyment of the petitioner over the subject property and if the respondents intend to remove any unauthorized structures, they shall follow the due process of law.

No order as to costs. Miscellaneous petitions, pending if any, shall stand closed.

June 29, 2017
KTL

RAJA ELANGO, J