

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.19816 of 2017

ORDER:

Heard Sri B.Chandrasekhar, learned counsel for the petitioner, and learned Assistant Government Pleader for the respondents.

The petitioner prays for the following relief:

“...Writ of Mandamus, declaring the action of the 3rd respondent in dispossessing/ demolishing the petitioner’s residential premises bearing Door No.32-10-85, Tulasi Residency, Venkateswara Colony, Sheela Nagar, Gajuwaka, Visakhapatnam Distrit, as illegal, arbitrary and contrary to the provisions of law and consequentially direct the 3rd respondent not to demolish nor dispossess the petitioner’s from the said property”

The grievance of the petitioner is that the respondents, by referring notice issued under Section 7 of the Land Encroachment Act to the President and Secretary of Tulasi Residency Apartments, Thungalam, are proceeding to dispossess or demolish the house constructed by the petitioner after obtaining permission from the local authorities. In other words, the complaint of the petitioner is that when the petitioner is not an encroacher, proceedings under the Land Encroachment Act are not warranted. Secondly, assuming that the respondents have reason to believe that the petitioner has encroached a portion of land classified as Vagu, the respondents are under obligation to first delineate the land covered by vagu and the extent owned by the petitioner in patta land, issue

notice, after hearing the petitioner and thereafter pass orders in accordance with law.

The learned Assistant Government Pleader for Revenue, on instructions, and particularly after taking note of notices annexed as Exs.P.6 and P.7 submits that the authorities will not proceed to demolish or dispossess the petitioner by reference to a notice addressed to the President and Secretary of Tulasi Residency Apartments, but at the same time the respondents are prepared to follow the procedure, first undertake survey, determine the extent of encroachment, thereafter issue notice to the petitioner, and if circumstances warrant, dispossess or demolish the encroached portion.

Statement is placed on record.

The writ petition is disposed of by directing the respondents not to interfere with the petitioner's possession or enjoyment, except after following the procedure referred to above.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

S. V. BHATT, J

Dt:20.06.2017
BV