

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION Nos.6613 of 2008, 10435 of 2008, 3640 of 2012,
4767 of 2012 and 4149 of 2012

COMMON ORDER:

The petitioners in these five writ petitions are different individuals, filed the instant writ petitions aggrieved by the threatened action of respondents in dispossessing the petitioners from several house plots said to have been purchased under sale deeds, without recourse to law, as illegal, arbitrary and unconstitutional.

This Court protected the possession of petitioners by interim orders passed on different dates.

Respondents 1 to 3 filed counter affidavits and are opposing the writ prayers.

It is brought to the notice of this Court by the counsel appearing for parties that on 05.09.2012, W.P.No.4707 of 2008 and batch has been disposed of and the operative portion of the order reads thus :-

“It is a matter of record that the petitioners in W.P.Nos.4707 of 2008 and 19649 of 2012 are claiming properties under registered sale deeds executed in the years 1966, 1967, 1968, 1969 and 1974. Therefore, their claim cannot be brushed aside at the threshold. They have asserted in their representation, dated 11.02.2008, that they are in possession and enjoyment of the properties. If the lands in possession of the petitioners are required to be acquired for any public purpose, the respondents 1 to 4 in W.P.No.19649 of 2012 have to necessarily follow the due process of

law. Indisputably, the petitioners are not put on notice before passing orders of resumption.

Accordingly, all the Writ Petitions are allowed quashing the resumption order, dated 09.02.2008, passed by the Revenue Divisional Officer, SPSR Nellore District, Nellore. The official respondents are at liberty to initiate fresh resumption proceedings after putting the petitioners and impleaded respondents on notice. Till the conclusion of the resumption proceedings, there shall be *status quo* existing as on this day with regard to possession of the property.”

This Court (SVB,J) had occasion to consider the legality and validity of proceedings Rc.D.304-14/2008, dated 09.02.2008 of Revenue Divisional Officer, Nellore, and allowed W.P.No.7703 of 2008 with the following findings.

“On careful consideration of the reply of the 3rd respondent, I have no hesitation to conclude that the 3rd respondent presumes that the vendor of the petitioners was an assignee of petition land and that by executing registered sale deed dated 13.04.1984, the assignee has contravened the provisions of law and also assignment conditions. I am afraid the stand of the respondents is completely presumptuous; firstly the 3rd respondent failed to rebut the crucial averment, which has bearing on the right and title of the petitioners. The petitioners are not claiming right to petition schedule through the sale deed dated 13.02.1984, but the same is preceded by an earliest document stated to have been executed in the year 1956. Further, there is nothing on record to show that notice was issued to petitioners. Without going into the merits of the assertion of the petitioners, it would be suffice to observe that by reference to the proceedings dated 09.02.2008, the respondents or persons claiming through them shall not affect the possession or right of the petitioners, as the same

is violative of principles of natural justice, as such, the same is set aside.

Accordingly, writ petition is allowed. It is needless to observe the proprietary right of the petitioners can it be disturbed except in accordance with law. No order as to costs.

Having regard to the fact that the writ petition is allowed, the Contempt Case is closed and any grievance in pursuant or subsequent to the allowing of the writ petition arises, it is open to the petitioners to pursue remedy against such other authorities/ officers, who violate the orders of the Court.”

In the instant batch of writ petitions, the Revenue Department substantially relies on the proceedings Rc.D.304-14/2018, dated 09.02.2008 of Revenue Divisional Officer, Nellore, to claim either resumption of house plots or alleged possession pursuant thereto. The proceedings of Revenue Divisional Officer, Nellore, since are already interfered with, as noted above, this Court is of the considered view that the present writ petitions can be ordered in terms of order dated 05.09.2012 in W.P.No.4707 of 2008 and batch and order dated 03.04.2014 in W.P.No.7703 of 2008.

Accordingly, the writ petitions are ordered in terms of order dated 05.09.2012 in W.P.No.4707 of 2008 and batch and order dated 03.04.2014 in W.P.No.7703 of 2008.

The respondents shall not interfere with possession and enjoyment of petitioners of respective plots except in accordance with law. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 10-10-2017
Prv

