

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

Writ Petition No.10152 of 2017

ORDER:

The Writ Petition is filed alleging that the respondents are interfering with the possession and enjoyment of the property of the petitioner without following due process.

2. Heard Sri Ch.Ramakrishna, learned counsel for the petitioner and the learned Government Pleader for Municipal Administration and Urban Development appearing for respondent Nos.1 and 3, Sri Nimmagadda Venkateswarlu, learned standing counsel for the 2nd respondent-Municipality and the learned Government Pleader for Irrigation and Command Area Development appearing for Respondent Nos.4 and 5.

3. It is the case of the petitioner that one, Alla Vema Reddy has occupied 0.32 square yards on eastern side bund of the eastern side canal at Tenali Market Road, Tenali Town and constructed a shop therein. Subsequently, the said shop was purchased by petitioner's father for consideration and the petitioner has been carrying on business by selling household articles from the said premises. When certain third parties along with municipal authorities sought to interfere with the petitioner's possession and enjoyment, the petitioner filed O.S.No.300 of 2012 on the file of the I Additional Junior Civil Judge, Tenali, Guntur District and the same is pending adjudication. Now the respondent – Irrigation Department authorities are pressuring the petitioner to vacate the subject premises without following due process.

4. The learned Government Pleader for Irrigation and Command Area Development, on instructions, submits that the subject site near Municipal Market, Tenali, on the left bank of east main canal, belongs to Water Resources Department and the petitioner has occupied the land unauthorizedly and carrying on business therein. There is no permission granted by any of the Department and no taxes were collected from the petitioner by the Irrigation Department. The allegation that the irrigation authorities attempted to dispossess the petitioner is not correct, however, liberty may be given to take appropriate action in accordance with law.

5. Having considered the respective submissions, albeit the subject property belongs to the Irrigation Department, admittedly the petitioner is in possession of the subject property over a long period.

6. In those circumstances, the respondents shall dispossess the petitioner by following due process, including under the provisions of Land Encroachment Act. Till such time the dispossession is made in accordance with law, the petitioner's possession and enjoyment shall not be interfered with.

7. The Writ Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions pending, if any, in the writ petition shall stand closed.

CHALLA KODANDA RAM, J

Dated: 27.03.2017.
skmr