

THE HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No. 276 OF 2015

ORDER:

This Writ Petition is filed by the petitioners to declare the action of the respondents in trying to demolish their shops bearing D.No. 7-447 admeasuring 92 square yards situated in survey No. 172/5, Main Road, Jaggampet Village and Mandal, East Godavari District, without issuing any notice as illegal and arbitrary.

2. The case of the petitioners is that they purchased one tiled house and a thatched house bearing D.No. 7-447 admeasuring 92 square yards situated in survey No. 172/5, Main Road, Jaggampet Village and Mandal, East Godavari District, by way of registered sale deed dated 11-06-2014; that as the said houses were in dilapidated condition, the petitioners got them demolished and constructed one RCC building with two shops; that while the matter stood thus, respondent Nos. 4 and 5 came to the petitioners' building and tried to demolish it without assigning any reason and that no notice whatsoever has been issued to them.

3. Counter affidavit has been filed by the District Forest Officer, East Godavari District, Kakinada, stating that the land measuring Ac. 0.26 cents situated in old survey No. 100/5 (R.S.No. 172/5) was given to Forest Department way back in the year 1931 and all the records would show that the land stood in the name of Forest Department.

4. Heard learned counsel for the petitioners and learned Government Pleader for Forest Department.

5. On 13-01-2015, this Court granted an *interim* direction directing the respondents not to interfere with the peaceful possession and enjoyment of the subject premises without following the provisions of the A.P. Land Encroachment Act, 1905 (for short, 'the Act'). The said order is not vacated and holds good even as on today. Learned Government Pleader for Forest Department submits that they will follow the due procedure contemplated under the Act to vacate the petitioners from the subject land.

6. In view of the submission made by learned Government Pleader, the Writ Petition is disposed of directing the respondents to follow the procedure under the Act before evicting the petitioners if it is found that the latter encroached the forest land. Pending miscellaneous petitions, if any, shall stand closed in consequence.

KONGARA VIJAYA LAKSHMI, J.

28-11-2018

JSK