

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION NO.20817 OF 2018

ORDER:

Heard Mr. O.Manohar Reddy for petitioner and the learned Government Pleader for respondents and, with their consent, the Writ Petition is disposed of at admission stage.

On 21.06.2018, at request of respondents, the Writ Petition was directed to be listed today for instructions or produce file relating to the subject matter of the Writ Petition. Today, the fourth respondent/Tahsildar is present, places on record the written instructions dated 19.06.2018 and also produces the record in file No.B/464/18 dated 05.06.2018.

The petitioner prays for mandamus declaring the action of fourth respondent in interfering with the construction undertaken by petitioner in premises bearing D.Nos.1-1-76, 77 and 78, as illegal, arbitrary and without jurisdiction. The petitioner refers to the notice dated 05.06.2018 issued under the A.P. Revenue Summonses Act, 1869. The petitioner does not challenge the notice and further, as he is advised and required, prepared to submit documents and explanation in reply to the notice issued by the fourth respondent. Now, the grievance of petitioner is that the fourth respondent, by referring to notice dated 05.06.2018, is physically interfering with or stopping the construction undertaken by petitioner in the premises referred to above. The Assistant Government Pleader referring to written instructions dated 19.06.2018, states that the subject matter of the Writ Petition i.e. premises bearing D.Nos.1-1-76, 77 and 78 is part of sizeable extent of land in Survey Nos.56/1, 56/2 and 56/3 and has been

declared as 'Evacuee Property' of Nawab Ghalib Baig. The Evacuee property vests in the Government and therefore, the notice is issued both to verify the status or standing of the petitioner *vis-à-vis* the subject matter of Writ Petition and also to preserve and protect the Government property pending consideration of the reply and therefore, no illegality in interfering with the ongoing activity.

The instructions are perused and this Court takes note of the basis on which the fourth respondent is proposing to proceed against petitioner by issuing a notice under the A.P. Revenue Summonses Act, 1869. This Court is now not called upon to adjudicate the legality or otherwise of the notice, much less the tenability of the claim of the petitioner. The grievance of petitioner simply stated is that the fourth respondent ought not to be interfering with the construction made by the petitioner in subject premises. This Court though can take note of the reason in trying to protect the property but there is difficulty in accepting and approving such interference with the enjoyment or construction activity undertaken by the petitioner through oral orders. The fourth respondent if has reason to initiate action on the substantive right claimed by Government, the fourth respondent can certainly do so, but in accordance with law.

The Writ Petition is disposed of and the respondents shall not interfere with petitioner's right, except in accordance with law. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(S.V.BHATT, J)

25th June 2018
RRB