

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.27047 OF 2018

ORDER:

Heard Mr.H.Venugopal for petitioner and the learned Assistant Government Pleader for respondents.

The prayer reads thus:

“Writ of Mandamus declaring the action of the respondents particularly respondents 3 and 4 in illegally interfering with the petitioner’s owned and possessed land in Survey No.72/8, admeasuring Ac.8-00, situated at Savargaon village, Battisavargaon Mandal, Adilabad District, as bad, illegal, and arbitrary and consequently to direct the respondents not to interfere with the possession and enjoyment of the petitioner over the said land other than due process of law in the interest of justice...”

Keeping in view the written instructions of even date, this Court does not propose to refer to the details set out in the writ affidavit.

The 4th respondent states that the petitioner in the name of enjoying petition land has encroached Ac.1-00 land belonging to Government and the 4th respondent tried to prevent development of private and Government land into a layout.

Mr.Venugopal contends that the 4th respondent, if intends to remove encroachment or occupation, the 4th respondent ought to have put on notice the petitioner, served a copy of survey report and thereafter the orders, as are deemed fit, are passed. In the case on hand, though the petitioner is enjoying Ac.8-00 of land in Survey No72/8, the 4th respondent is changing the physical features and the same amounts to interfering with petitioner’s possession without recourse to law.

The Assistant Government Pleader submits that there is encroachment and that the petitioner is trying to convert the petition land into non-agricultural use without permission from the competent authority. According to him, the petitioner is also either encroacher or enjoying of Ac.1.00 Government land. As the prayer is not to interfere with the petitioner's possession of Ac.8-00 in Survey No.72/8, he submits that writ petition can be disposed of by giving liberty to respondents to serve notice together with supporting documents on the alleged encroachment, thereafter proceed in accordance with law, pass orders and remove encroachment.

The issue is between admitted extent and alleged encroached extent. Therefore, this Court at this stage ought not to examine the merits of the case of petitioner or respondents. Hence, the writ petition is disposed of as follows:

The respondents are directed not to interfere with the petitioner's possession of Ac.8-00 in Survey No.72/8.

The respondents, if are of the view that the petitioner either encroached or has been in unauthorised occupation of Government land, can put the petitioner on notice and take steps for removing the encroachment in accordance with law.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:01.08.2018

Sp