

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No. 643 of 2016

ORDER:

This writ petition under Article 226 of the Constitution of India is filed by the petitioner to declare the action of 4th and 5th respondents attempting to dispossess him from plot No.101 in Sy.No.305/4 of Kallukunta Village, Peddakaduburu Mandal, Kurnool District, in spite of existence of patta, without following due procedure as contemplated under law as illegal, arbitrary and violation of principles of natural justice.

2. The wife of petitioner, who expired on 12.05.2015, is the beneficiary of assignment of house site and obtained patta for plot No.101 in Sy.No.305/4 of Kallukunta Village, Peddakaduburu Mandal, Kurnool District, and alleged that the respondents are trying to evict the petitioner forcibly without following due process of law.

3. Learned Government Pleader for Revenue for the State of Andhra Pradesh would contend that the patta produced before the Court by the petitioner is fake as it was not issued by the authority and therefore, the petitioner is trespasser or encroacher of the Government land and prayed to pass appropriate orders.

4. It is an undisputed fact that the petitioner is in possession of the property either as trespasser or encroacher of the Government land. Even if the Government is intending to evict the petitioner, who is in occupation of the property, it is bound to follow the procedure prescribed under Land Encroachment Act or under any other law governing removal of such encroachment. Therefore, the

respondents are not entitled to evict the petitioner forcibly without following due process of law.

5. In the result, the Writ Petition is allowed, directing the respondents not to dispossess the petitioner from plot No.101 in Sy.No.305/4 of Kallukunta Village, Peddakaduburu Mandal, Kurnool District, without following due process of law subject to genuineness of the patta allegedly granted in favour of the wife of petitioner. No order as to costs. Miscellaneous petitions, if any, pending in the petition shall stand closed.

24th April, 2018.

sj

M.SATYANARAYANA MURTHY, J.

