

THE HON'BLE MR JUSTICE V.V.S.RAO

-
WRIT PETITION No.23381 of 2000
-

ORDER:

The petitioner filed the present writ petition seeking a writ of Mandamus declaring the action of the respondents 1 to 4 in trying to dispossess the petitioner forcibly as illegal and arbitrary.

The petitioner claims that he undertook the work of laying out of roads, drainage and water lines in the layout of the fifth respondent herein. Therefore, the society and members allotted to him plot No.122 admeasuring 180 Sq.yards situated at B...Jubilee Hills, Golconda Mandal. He allegedly constructed a pakka building and obtained electricity connection. He alleges that on 26.11.2000 some officials visited the plot and tried to dispossess the petitioner and, therefore, the present writ petition is filed.

This Court while admitting the writ petition on 04.12.2000 passed interim orders staying dispossession. While the interim order is in force, >>>> Cooperative Housing Society filed two applications; one for impleadment as respondent No.6 in the writ petition and the other praying this Court to vacate the interim orders. These matters are listed today. However, having regard to the counter averments, the matter is being disposed of at the interlocutory stage.

The Special Deputy Collector (Land Protection) filed counter affidavit on behalf of the second respondent. It is stated that the land in survey No.139 of Shaikpet admeasuring **3288.02 Sq.yards** is shown as Government land and that a supplementary Shethwari is issued creasing survey Nos.122/7 to 10 whereas survey No.122/1 is shown as **3,049.39 Sq.yards** and survey Nos.129/2 to 129/10 together as shown as measuring 193.03 guntas. After town survey, notification was issued under Section 6(1) of A.P. Survey & Boundaries Act, 1923 (the Act, for brevity) and that the land in question is surveyed as part of counter..... notification under Section 13 of the Act was issued. They have become final, as nobody filed civil suit within three years as required under Section 14 of the Act. The land in question is the Government and the petitioner has no right over the land. It is further stated that when the petitioner was trying to make construction on plot No.12.... which is situated in a corner and as the said land was required for construction of the school under Akshara Sankranthi programme, the petitioner was prevented from proceeding with the construction. It is also stated that even before the respondents could

take any action for eviction from the encroachment, writ petition is filed.

Though counter affidavit is filed on 06.8.2005, no reply affidavit is filed. The submission of the respondents that it is a Government land, therefore, remains uncontroverted. Be that as it is, the counter affidavit does not deny the possession of the petitioner. Now in the counter it is stated that even before any action is taken to prevent encroachment and constructions, the writ petition is filed. Therefore the respondents should initiate appropriate action under the Land Encroachments Act, 1905 against the petitioner and till then he cannot be evicted from the place if he is still in possession of the plot No.122 in survey No.402/4 as alleged by the petitioner.

The writ petition, with the above observations, is disposed of. No costs.

(V.V.S.RAO, J)

July 14, 2006.

YS