

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF OCTOBER
TWO THOUSAND AND EIGHT

PRESENT
THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY
WRIT PETITION NO : 23602 of 2008

Between:

C.K. Babu @ C.K. Jaya Chandra Reddy S/o. Krishna Reddy
R/o. 1-5777/4, Reddy and Reddy Colony, Kattamanchi,
Chittoor.

..... **PETITIONER**

AND

- 1 The Estate Officer, South Central Railway, Guntakal Division, Anantapur District.
- 2 South Central Railway, rep. by its Divisional Manager, Guntakal Division, Anantapur District.

.....**RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus quashing the notice dated 25.01.2007 bearing No.G/W.274/CTO/W.III said to have issued under Sec. 4(1) of the Public Premises (Eviction of Unauthorised Occupants Act), 1971 and consequently declaring the subsequent notice dated 19.02.2007 in Form 'B' as null and void.

Counsel for the Petitioner:MR.SHARAD SANGHI

Counsel for the Respondent No.: MR.T.RAMAKRISHNA RAO

The Court made the following :

ORDER

This writ petition has been filed by C.K.Babu with a prayer to issue writ, order or direction more particularly one in the nature of writ of Mandamus quashing the notice dated 25.1.2007 said to have been issued under Section 4 (1) of the Public Premises (Eviction of unauthorized Occupants Act), 1971 (for short 'the Act').

The petitioner along with his two brothers is in occupation of Ac.1.39 cents out of Ac.2.15 cents, having got it under registered partition deed dated 7.4.2006. His name appears to have been mutated in the revenue records. Pattadar pass book and title deeds have also been issued in his favour. The 1st respondent issued notice bearing No.G/W/274/CTO/W.III, dated 25.1.2007 under Section 4 (1) of the Act. Thereupon, Form-B notice as contemplated under section 5 (1) was also issued on 19.2.2007. The order passed under Section 5 (1) came to be challenged by way of appeal in CMA No.9 of 2007 on the file of I Additional District Judge, Chittoor. The said appeal came to be allowed remanding the matter to the primary authority. Now, enquiry is pending with the primary authority. The present writ petition has been filed contending that notice under Section 4 (1) of the Act is not legal and proper.

When the writ petition came up for admission, Sri R.S.Murthy, learned standing of South Central Railway received notice on behalf of the respondents.

A fact remains that enquiry is pending with the primary authority. The petitioner is at liberty to challenge the validity of notice issued under Section 4 (1) of the Act before primary authority.

Reserving the said liberty, the writ petition is disposed of at the admission stage. No costs.

31-10-2008

rkk