

Andhra Pradesh High Court - Amravati

Battula Drsv Sanyasirao vs The State Of Andhra Pradesh on 12 May, 2023

HONOURABLE SMT. JUSTICE V.SUJATHA

WRIT PETITION No. 13116\_2023

ORDER:

This writ petition came to be filed under Article 226 of the Constitution of India seeking the following relief:-

"....to issue a Writ Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in trying to demolish the shop of Petitioner in his possession and enjoyment existing in the front side of his land of an extent of Ac. 0.12 cents situated in Sy. No. 204-10, Panduru village, Kotauratla Mandal, Visakhapatnam district without issuing any notice and further trying to evict the Petitioner from the said property which is bounded on the East: Road, South: the land of Sagireddy Narayanamma, West: the land of Gangala Varalakshmi and North: the land of Pachigola Krishna as highly arbitrary, unlawful, illegal, in violation of the Fundamental Rights of the Petitioner guaranteed under Article 300-A of the Constitution of India and Rules made thereunder by consequently directing the Respondents not to interfere with the property of the Petitioner except under due process of law..."

2. Brief facts of the case are that the petitioner is the absolute owner and possessor of the agricultural land of an extent of Ac. 0.12 cents situated in Sy. No.204-10, Panduru village, Kotauratla Mandal, Visakhapatnam having purchased the same vide registered sale deed vide Doc. No. 3603/2020 dated 20.10.2020. The boundaries of the land are East: public road belonging to Roads and Buildings, South: the land of Sangareddy Narayanamma, West: the land of Gangala varalakshmi and North: the land of Pachigola Krishna. The petitioner has set up a small thatched hut on the front side of the subject land and doing business of selling variety of fruits for the last several years, which is in the panchayat, Revenue and R& B Department. While so, due to some village politics prevailing in the village, the Panchayat, Revenue and Roads and Buildings authorities to cause loss to the petitioner, they have planned to demolish the shop of the petitioner and to grab the land, as if property falls within the road margin. Because of which, all of a sudden, the Panchayat and R&B staff came to the subject property and demanded to remove the shop, failing which, they will take steps to remove the shop on 03.05.2023, without any notice and without following due process of law. Challenging the same, the present writ petition is filed.

3. Today when the matter was taken up for hearing, learned Government Pleader appearing for the Roads and Buildings on instructions have submitted that they are not interfering with the possession of the petitioner's subject property and further they will follow due process of law. He also submitted that the issue will be resolved, once survey is conducted.

4. Heard both sides and perused the material placed on record.

5. In view of the above, this court feels it appropriate to dispose of this writ petition with the following directions:-

- 1) The 3rd respondent with the help of Revenue officials shall conduct survey and fix boundaries of the subject property in the presence of the petitioner or his representatives.
- 2) For the purpose of enabling the petitioner to be present at the time of the survey, notice shall be given to the petitioner.
- 3) After the survey is conducted, if it is found that the petitioner has encroached, it would be open to the respondents to take appropriate action in accordance with the law.
- 4) The above exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order and till such time, the respondents are directed neither to interfere nor to dispossess the petitioner from the subject property without following due process of law as contemplated under the rules."

6. Accordingly, this writ petition is disposed of. There shall be no orders as to costs.

The miscellaneous applications pending, if any in this Writ Petition, shall also stand closed.

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SMT. JUSTICE V.SUJATHA Date: 08.05.2023 Issue cc in two days (B.O) Psr HONOURABLE SMT. JUSTICE V.SUJATHA (Disposed of) WRIT PETITION No. 13116\_2023 Date:12.05.2023 Psr The 2nd respondent has filed counter stating that the notice of retirement dated 15.05.2014 served to the petitioner a year before her retirement. As on the date of issuance of notice, the issue of enhance of age of superannuation from 58 years to 60 years was neither contemplated nor assumed and no Government orders were issued by the time of her attaining the age of superannuation i.e., 58 years. Therefore, the respondents authorities are helpless in extending the said benefit.