

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
SATURDAY, THE FOURTEENTH DAY OF AUGUST, TWO THOUSAND AND TWENTY ONE
:PRESENT:
THE HONOURABLE SRI JUSTICE M. SATYANARAYANA MURTHY

I.A. No. 1 of 2021
IN
W.P.(SR)No. 23541 of 2021

Between :-

V. Chakrapani Reddy, S/o. Late Devenra Reddy, aged about 46 years,
Occ : Business, R/o. D.no. 10-121, Thirupathi Roa, Piler, Chittoor District.

...Petitioner
(Petitioner in W.P.(SR)No. 23541 of 2021
on the file of High Court)

AND

- 1.The State of A.P., rep. by its Principal Secretary, Revenue Department,
Secretariat Buildings, Velagapudi, Amaravati, Guntur District.
- 2.The District Collector, Chittoor District, Chittoor.
- 3.The Tahsildar, Piler Mandal, Chittoor District.

...Respondents
(Respondents in-do-)

Counsel for the Petitioners : SRI SURESH KUMAR REDDY KALAVA
Counsel for the Respondents : G.P. REVENUE

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent not to demolish the Petitioner's house to an extent of Ac. 0.06 cents in Sy.No. 202/3, situated in Gudarevupalle Village, Piler Mandal, Chittoor District, pending disposal of W.P.(SR) No. 23541 of 2021, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

(As per the oral information given by learned Registrar (Judicial), this matter is taken up as House-Motion through video conferencing)

ORDER :-

"The case of the petitioner is that originally the land to an extent of Ac.0.33 cents situated in Sy.No.202/3 belong to one S.Rasool Basha and he sold away the property to various persons and the petitioner purchased an extent of Ac.0.06 cents situated in Sy.No.202/3 Gudarevupalle Village, Piler Mandal, Chittoor District. He purchased the property under a sale agreement dated 02.03.2021 and since then, he has been in physical possession and enjoyment of the said property by constructing a house and by paying property tax and electricity consumption charges to the concerned authorities.

The grievance of the petitioner is that the 3rd respondent along with his staff came to the subject property on 09.08.2021 and threatening to demolish the existing house in part without issuing any notice or following due process of law. Hence, the petitioners filed the present writ petition.

Contd..2...

Heard Sri Kalva Suresh Kumar Reddy, learned counsel for the petitioner and learned Assistant Government Pleader for Revenue appearing for the respondents.

Learned counsel for the petitioner submits that the petitioner cannot be dispossessed from the subject land without following due process of law as held by the Apex Court in *Rame Gowda vs. M. Varadappa Naidu* (AIR 2004 SC 4609). On the other hand, learned Assistant Government Pleader for Revenue appearing for the respondents submits that the building was constructed on road poramboke, which is not permissible in law.

Even assuming for a moment that the petitioner are in unlawful possession still the respondents are under obligation to issue notice and to follow due process of law to evict the petitioner, who is in allegedly unauthorised/illegal possession of the property.

The main reason for approaching this Court is that the respondents are trying to demolish the petitioner's house and in fact, demolished the part of the same.

Apart from that, the demolition of the building on the festival is deprecated as held by the Full Bench of the composite High Court in *3 Aces, Hyderabad vs Municipal Corporation Of Hyderabad* (AIR 1995 AP 17) laid down the following guide lines.

“When the Corporation comes to the conclusion, keeping the above guidelines in view, that the construction in question is required to be demolished or pull down, it should follow the procedure indicated below:

(i) The demolition should not be resorted to during festival days declared by the State Government as public holidays excluding Sundays. If the festival day declared by the Government as a public holiday falls on a Sunday, on that Sunday also, the Corporation should not resort to demolition.

(ii) In any case, there should not be any demolition after sun set and before sun rise.

(iii) The Corporation should give notice of demolition as required by the statute fixing the date of demolition. Even on the said date, before actually resorting to the demolition, the Corporation should give reasonable time, depending upon the premises sought to be demolished, for the inmates to withdraw from the premises. If within the time given the inmates do not withdraw, the Corporation may proceed with actual demolition;

These guidelines are laid down in view of the fact that the Corporation is a public authority and its action must be tested on the touchstone of fairness and reasonableness.”

Taking advantage of the two successive holidays, the respondents started demolishing the construction without following due process of law i.e., evicting the petitioner on the ground of unauthorised occupation, which is impermissible in law.

Having regard to the facts and circumstances of the case; considering the submissions and in the light of the law down by the Apex Court, the respondents are directed not to demolish the house of the petitioner situated in an extent of Ac.0.06 cents in Sy.No.202/3, Gudarevupalle village, Piler Mandal, Chittoor District, for a period of one week from today.

For obtaining instructions, list on 17.08.2021 in the Motion List.”

ASSISTANT REGISTRAR

//TRUE COPY//

for ASSISTANT REGISTRAR

To

- 1.The Principal Secretary, Revenue Department, State of A.P.,
Secretariat Buildings, Velagapudi, Amaravati, Guntur Distict.
- 2.The District Collector, Chittoor, Chittoor District.
- 3.The Tahsildar, Piler, Chittoor District.
(Addressee Nos. 1 to 3 by RPAD)
- 4.Two CCs to the G.P. for Revenue, High Court of A.P., at Amaravati(OUT)
- 5.One CC to Sri Suresh Kumar Reddy Kalava, Advocate(OPUC)
- 6.One spare copy.

TKK

HIGH COURT

MSM.J

DT.14-08-2021.

ORDER

I.A.No. 1 of 2021
IN
W.P(SR).No. 23541 of 2021

INTERIM DIRECTION

(HOUSE MOTION ON 14-08-2021)

DRAFTED BY TKK
DT.14-08-2021.

HIGH COURT

MSM.J

DT.14-08-2021.

Note :- For obtaining instructions, list on 17.08.2021 in the Motion List.

ORDER

I.A.No. 1 of 2021
IN
W.P(SR).No. 23541 of 2021

INTERIM DIRECTION