

HONOURABLE SMT. JUSTICE V. SUJATHA**WRIT PETITION No.10846 of 2023****ORDER:**

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

“...to issue a Writ, order or Orders more particularly one in the nature of a Writ of Mandamus declaring the action of the 3rd and 4th respondents in interfering with peaceful possession and enjoyment of petitioner site with an extent of Ac.0.40^{3/4} cents comprised in Sy.no.244-3A and 244-4 of Padugupadu Village, Kovur Mandal, SPSR Nellore District, as illegal, arbitrary and unconstitutional and consequently direct the respondents not to dispossess the petitioner from his respective petitioner site with an extent of Ac.0.40^{3/4} cents comprised in Sy.no.244-3A and 244-4 of Padugupadu Village, Kovur Mandal, SPSR Nellore District, without following due process of law and pass...”

2. The petitioner is the absolute owner and possessor of an extent of Ac.0.40^{3/4} cents in Sy.No.244-3A and 244-4 of Padugupadu Village, Kovur Mandal, SPSR Nellore District, having purchased the said land from one N. Pedda Verra Venkata Raghavaiah vide Doc.No.271 of 1991, dated 14.06.1991, the petitioner constructed ground plus two floors in the subject land and is in peaceful possession and enjoyment of the subject property. The petitioner has also obtained an approved building

plan from panchayat and is regularly paying panchayat taxes and possesses electricity connection.

3. While the matter being so, the respondent authorities on 17.04.2023 came to the petitioner's property and marked in the middle of the said property, through the building, with an intention to demolish the said building for widening of the existing road, without giving any notice to the petitioner though it is a private property. Challenging the said action of the respondents, the present writ petition is filed.

4. Today, when the matter came up for hearing, learned Government Pleader for Roads and Buildings appearing for respondent No.2 had produced a copy of instructions of the Deputy Executive Engineer (R&B), NH Sub-Division, Ongole, vide Lr.No.CourtCases/Kovvur/DEE/LA/2023, dated 26.04.2023, wherein it is state as follows:

“the work regarding the widening of road from Two Lane to Four Lane with service roads from Km.1.050 to Km.3.470 with existing link road connecting NH-67 to NH-16 in Kovvur Town of WPC mode was sanctioned by MoRT&H, New Delhi and the contractor was finalized by calling tenders. In order to execute the above project the site was to be handed over to the contractor free from encroachments. The Executive Engineer (R&B) vide letter dated 23.03.2023, has addressed the Revenue Divisional Officer, Nellore, who is the competent authority under the Land Acquisition Act for deputing the

Revenue Surveyor for demarcation of road boundaries and identification of encroachments. Accordingly, the marking was done by the Revenue Surveyor with the help of NH Staff"

5. Learned Government Pleader on instructions has further submitted that the removal of encroachments will be done only after following due process of law.

6. Recording the said instructions, this Court feels it appropriate to dispose of this writ petitioner with the following directions:

i. The Mandal Surveyor, with the assistance of the Revenue department, shall conduct a survey to identify the extent of land acquired either encroached by the petitioner or acquired by the respondents. This survey shall be conducted in the presence of the petitioner or their representatives.

ii. For the purpose of enabling the petitioner to be present at the time of the survey, notice shall be given to the petitioner.

iii. After the survey is conducted, if it is found, that the petitioner has encroached the road margin, it would be open to the respondents to

take appropriate action in accordance with law.

This survey shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

iv. Till such survey is completed, the respondents shall not interfere with the petitioner's possession over the subject property, without following due process of law.

7. Accordingly, with the above directions, this writ petition is disposed of. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

V. SUJATHA, J

Date: 26.04.2023.

Note: CC by 28.04.2023

GSS

49

HONOURABLE SMT. JUSTICE V. SUJATHA

W.P. No.10846 of 2023

Date: 26.04.2023

GSS