

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**WRIT PETITION NO.12530 of 2021**

**ORDER:**

This petition is filed under Article 226 of the Constitution of India, seeking the following relief:-

***".... to issue a Writ of Mandamus or any other appropriate Writ or Writs, Order or Direction declaring the action of Respondents in seeking to evict the petitioner from the land admeasuring Ac.0.03cents in Sy.No.103-5 situated at Mandalapalli Village, Gudibanda Mandal, Ananthapuram District belonging to the petitioner, as illegal, arbitrary, violative of principles of natural justice and violative of Article 300-A of the Constitution of India and to consequently direct the respondents to restrain themselves from interfering with the peaceful possession and enjoyment of petitioner over the subject land ..."***

2. The petitioner is the absolute owner and possessor of the land admeasuring an extent of Ac.0.03 cents in survey No.103-5 situated at Mandalapalli Village, Gudibanda Mandal, Ananthapuram District. The said land was assigned by the 2<sup>nd</sup> respondent on 10.02.2005 to the petitioner and since then the petitioner is in possession and enjoyment of the subject land by fixing boundary stones by erecting a hut. As the said hut was in dilapidated condition, the petitioner demolished the same and wanted to construct a small house. At the instigation of 3<sup>rd</sup> respondent, 2<sup>nd</sup> respondent is trying to evict the petitioner from the land without any notice and following the due process of law, which is illegal and arbitrary.

3. Though the petitioner made several allegations in the writ affidavit filed along with the writ petition, the truth or otherwise in those allegations need not be adjudicated by this Court, in view of the submission made by the learned Assistant Government Pleader for Revenue that the respondent authorities will follow due process of law. The material on record *prima facie* establishes that the petitioner is in possession of the disputed property.

4. It is settled law that a person in settled possession cannot be dispossessed forcibly as held in **Rame Gowda (D) By Lrs vs M. Varadappa Naidu (D) By Lrs. & Anr<sup>1</sup>**, **Ram Rattan v. State of Uttar Pradesh<sup>2</sup>** and **Munshi Ram v. Delhi Administration<sup>3</sup>**, the Supreme Court held as follows:-

“...to forcibly dispossess citizens of their private property, without following the due process of law, would be to violate a human right, as also the constitutional right under Article 300A of the Constitution.”

5. Hence, recording submission of the learned Assistant Government for Revenue as there is no proposal to take possession of the subject land, and in view of the judgments of Apex Court referred above, the respondents are directed not to dispossess the petitioner from the subject property without following the due process of law and an opportunity of hearing

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<sup>1</sup> AIR 2004 SC 4609

<sup>2</sup> 1975 AIR 1674 = 1975 SCR 299

<sup>3</sup> 1968 AIR 702 = 1968 SCR (2) 408

should be given to both the parties after following the due process of law in accordance with law.

6. With the above direction, this Writ Petition is disposed of, at the stage of admission, with the consent of both the counsel. However, this order will not preclude the respondents to take appropriate steps in accordance with law. There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, in this Writ Petition, shall stand closed.

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**JUSTICE M. SATYANARAYANA MURTHY**

Date: 01.07.2021

SPP

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