

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.34590 of 2015

ORDER:

Heard.

The petitioner questions the notice issued under Section 6 of the Land Encroachment Act, 1905 (for short 'the Act') directing him to vacate and handover the land admeasuring Ac.0-03 cents in Sy.No.741/1 situated at Chinatadinada Village, Kalidindi Mandal, Krishna District. It appears that there is a Kammileru drain canal and on noticing encroachment thereon, the petitioner was given notice under Section 7 of the Act on 11-09-2015, which was received by the petitioner on 14-09-2015. In response to the said Section 7 notice, the petitioner stated to have filed his detailed objections on 23-09-2015 and thereafter, the impugned order is passed directing eviction of the petitioner merely on the ground that though the petitioner has received notice, he has not vacated the land in question.

Evidently, the petitioner's explanation in response to the notice under Section 7 of the Act is neither referred to nor dealt with while passing the order under Section 6 of the Act by the 3rd respondent. It is well settled that when the 3rd respondent has resorted to the provisions of the A.P.Land Encroachment Act, 1905, and has issued notice to the petitioner under Section 7 of the Act, the 3rd respondent is duty bound to consider the said objections and pass appropriate orders, after considering the same. It is, therefore, evident that issuing Section 7 notice calling for explanation is not merely an empty formality and the object of Section 7 calling for objections must be fulfilled by considering the same before taking appropriate decision under Section 6 of the Act.

In view of that, the impugned eviction notice issued under Section 6 of the Act is set aside and the matter is remitted to the 3rd respondent, who shall consider the petitioner's objections, referred to above, and then take appropriate decision in accordance with law by passing a reasoned order.

Accordingly, the writ petition is allowed. No order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 26-10-2015

Prv