

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.14321 of 2015

ORDER:

Heard both sides.

2. The petitioner is aggrieved by the order of respondent No.3 in D.Dis.No.14/2015 dated 27.4.2015 directing him to remove the trees allegedly raised in the Government land within three days.

3. Though the impugned proceedings are styled as notice, it is, in fact, an order directing the petitioner to remove the said trees. The same is questioned in the writ petition primarily on the ground that there is no prior show cause notice or enquiry and without giving an opportunity to the petitioner, straightaway, the order of removal of trees was passed. The petitioner also states that he is in possession of his land to an extent of Ac.4.15 cents in Sy.No.116 of Devapatla Revenue Village, Sembepalli Mandal, Y.S.R.Kadapa District and he had acquired the same by way of a gift deed executed by his father in his favour vide document bearing No.388/2006 and also claims that he is having pattadar pass book and title deed to the said property.

4. Counter-affidavit filed by respondent No.3 places history of the land in Sy.No.116 admeasuring Ac.4.15 cents and concludes that the petitioner is the original owner of the said land. However, it is stated that one V.Kesavachari filed a complaint stating that the petitioner encroached the Government land and on inspection, it was observed that the petitioner herein has encroached the adjacent Government land to an extent of Ac.0.16 cents in Sy.No.147 classified as pond by way of planting mango trees, and therefore, the petitioner has been issued notices by respondent No.3 on 27.04.2015 and 03.06.2015 for

removal of the encroachments. It is stated that respondent No.3 has never interfered with the peaceful possession and enjoyment of his patta land in Sy.No.116 to an extent of Ac.4.15 cents.

5. It is suffice to note that respondent No.3 also accepts that he passed an order on 27.4.2015 and no show cause notice or an opportunity to the petitioner to give his explanation for the allegation made against him was given. In view of that, the impugned order cannot be sustained and is, accordingly, set aside. This order will not, however, preclude respondent No.3 from issuing appropriate notice to the petitioner, receive his explanation and pass appropriate orders in accordance with law.

6. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

7. Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE VILAS V.AFZULPURKAR

Date: 16.9.2015
AMD

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