

**HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**WRIT PETITION No.11511 OF 2015**

**ORDER:**

This writ petition is filed by the petitioner seeking a direction to the respondents 1 to 4 not to interfere and disturb the possession and enjoyment of the petitioner in wet land over an extent of Ac.1.24 guntas in Sy.No.853/2/3, Ramanujavaram Village, Manuguru Mandal, Khammam District, pending disposal of the C.M.A. dated 09.02.2015, on the file of the 2<sup>nd</sup> respondent-R.D.O.

It is the case of the petitioner that she is the owner and possessor of the land over an extent of Ac.1.24 guntas in Sy.No.853/2/3, Ramanujavaram Village, Manuguru Mandal, Khammam District and cultivating the said land since more than 40 years by paying the land revenue to the revenue department. While so, the 3<sup>rd</sup> respondent-Tahsildar issued a notice under Section 7 of A.P. Land Encroachment Act, 1905 (for short "the Act") to the 5<sup>th</sup> respondent pertaining to the above said land asking him to appear and file written statement before the 3<sup>rd</sup> respondent. The 5<sup>th</sup> respondent appeared and filed a written statement on 29.12.2014 before the 3<sup>rd</sup> respondent stating that she is not holding any land as alleged. The 5<sup>th</sup> respondent in her written statement further stated that the above said land belongs to the petitioner and it is in the possession and enjoyment of the petitioner. It is stated that inspite of submission of the written statement by the 5<sup>th</sup> respondent, the 3<sup>rd</sup> respondent passed the order on 20.1.2015 without considering the written statement of the 5<sup>th</sup> respondent and without following the due procedure as contemplated under Sections 7 and 6 of the Act. Further, the 3<sup>rd</sup> respondent issued proceedings dated 20.1.2015 to the 4<sup>th</sup> respondent-Mandal Revenue Inspector directing him to take the possession of the above said land from the petitioner. Aggrieved by the proceedings dated 20.1.2015, the petitioner preferred an appeal on 09.02.2015, before the 2<sup>nd</sup> respondent, under Section 10(1) of the Act, along with stay petition for interim orders, but the same were not considered so far by the 2<sup>nd</sup> respondent. Hence, the present writ petition.

Heard Sri S. Madan Mohan Rao, learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (T.G).

Learned counsel for the petitioner submits that even though the petitioner preferred an appeal along with the stay petition on 09.02.2015, the 2<sup>nd</sup> respondent has not take any steps either to number the appeal or pass any orders in the stay petition so far and hence he prays to allow the writ petition.

The right of appeal being a statutory right under the Act and the petitioner's right cannot be put in jeopardy and make the appeal provision itself nugatory. In that view of the matter, there is an obligation cast on the 2<sup>nd</sup> respondent to pass appropriate orders on the stay petition filed by the petitioner pending disposal of the main appeal/revision dated 09.02.2015.

Having regard to the facts and circumstances of the case and especially in view of the limited grievance of the petitioner that the appeal/revision along with the stay petition are pending before the 2<sup>nd</sup> respondent, interest of justice would be served, if a direction is given to the 2<sup>nd</sup> respondent either to dispose of the stay petition or the revision/appeal itself within a period of three months from today. Till such time either the stay petition or the revision/appeal, whichever is earlier, is disposed of, the petitioner shall not be dispossessed from her possession.

With the above directions, the writ petition is disposed of. Miscellaneous Petitions, if any pending in this writ petition shall stand closed. No order as to costs.

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**CHALLA KODANDA RAM,J**

Date:21.04.2015.

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**HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

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