

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF MAY
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.15460 of 2015

BETWEEN

Maddipati Sai Lakshmi and another

... PETITIONERS

AND

State of Andhra Pradesh, rep. by its District Collector and others

...RESPONDENTS

The Court made the following:

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ORDER:

Heard learned counsel for the petitioners and learned Government Pleader.

2. Petitioners are aggrieved by the notice issued to them under Section 7 of the A.P. Land Encroachment Act, 2005 alleging that they have occupied Ac.0-10 cents of Government land and erected a thatched house and called upon them to submit explanation as to why action under the Act should not be taken against them. Petitioners gave a detailed representation, dated 12.04.2015 and so far no orders are passed with reference to the said notice by respondent No.3-Tahsildar. Subsequently, petitioners also raised additional grounds that they are in long standing possession and are entitled to assignment of patta as per BSO 26 as well as G.O.Ms. No.100 dated 22.02.2014. They have also raised a contention by placing reliance upon a decision of this court in Voonna Bangaraju vs. Government of A.P. 2014 (3) ALD 443 that Grama kantam lands are not Government lands. Raising said contentions and challenging the impugned notice, the present writ petition is filed.

3. Apparently, the additional grounds, which are mentioned in the legal notice, are not found in the explanation submitted by the petitioners and the legal notice cannot be a substitute for the explanation. If the petitioners desire to raise such additional grounds in support of their explanation, they must file an additional explanation so that respondent No.3 will be in a position to appreciate petitioners' explanation and additional explanation and take a final decision in the matter. Since the notice issued under Section 7 of the Act, merely calls upon petitioners to submit explanation, there is no reason to entertain the writ petition. However, interest of justice would be served by protecting the possession of the petitioners till appropriate decision is taken by respondent No.3.

4. In the circumstances, writ petition is disposed of with the following directions:

1. Petitioners are at liberty to submit additional explanation by raising additional grounds in support of the explanation already submitted, provided such explanation is filed within a week from today.
2. Respondent No.3 shall consider the explanation submitted by the petitioners and take an appropriate decision in the matter by passing a reasoned order.

3. Till respondent No.3 takes appropriate decision and communicates the same to the petitioners, petitioners shall not be dispossessed of their land objected to in the notice.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

June 3, 2015

Lmv