

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.39811 OF 2014

O R D E R:

The petitioner claims to have constructed a small shop besides the Godavari river bund and behind CWC Pillar, on the road leading from Godavari river to Kaleshvaram Village, Mahadevpur Mandal, Karimangar District and he has been running a shop selling coconuts for the last 20 years. Alleging that petitioner is in illegal occupation of the Government land a notice dated 27.11.2014 was issued to him under Section 7 of the A.P. Land Encroachment Act, 1905 (in short "the Act") by the 4th respondent. The petitioner claims to have submitted an explanation dated 01.12.2014 to the 4th respondent and when the respondents have refused to receive the said explanation in response to the show cause notice, having no other alternative, petitioner has sent the same through Registered Post with Acknowledgment Due on 02.12.2014. In support of the claim, petitioner had filed the postal receipt issued on 02.12.2014 and also acknowledgment card issued by the Postal Department.

The matter was listed on 26.12.2014 and 27.12.2014 and again today. The learned Government Pleader once again sought time to get instructions to file counter. As the case can be disposed off on the facts available on record, I am not inclined to adjourn the matter once again. A perusal of the record discloses that after issuance of notice under Section 7 of the Act, 4th respondent also appears to have passed an order dated 20.12.2014, under Section 6 of the Act. A perusal of the said

order would reveal that there is no reference with regard to the explanation submitted by the petitioner. As a matter of fact, on earlier occasion this Court in W.P.No.29677 of 2014 had directed no action to be taken against the petitioner without following due process. In the order dated 20.12.2014, there is no reference to the explanation submitted by the petitioner. In other words, the order suffers from non application of mind violating the principles of natural justice. In those circumstances, the order dated 20.12.2014 passed under Section 6 of the Act is set aside giving liberty to the respondents to pass appropriate orders after considering the explanation submitted by the petitioner. Petitioner may also be given an opportunity of hearing if he so desires.

Accordingly, the Writ Petition is disposed off. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J

Dated:21.01.2015.

Ssv