

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No. 4514 of 2015

DATE: 25.02.2015

Between:

Punna Vasudev
and another

.. Petitioners

And

1. The State of Telangana
2. The District Collector
3. The Revenue Divisional Officer
4. The Tahsildar

.. Respondents

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ORDER:-

The petitioners claim to have purchased lands admeasuring 500 and 1000 square yards in Sy.Nos.1441 and 1442 in Plot Nos.58/A and 72 under registered sale deeds dated 18.11.2006 and 01.02.2006 respectively from their vendor Padmashali Power Loom Industries Housing Co-operative Society Limited, Nalgonda and erected small tin sheds therein and eking out their livelihood by installing power looms and doing weaving work. While so, it is stated that the 4th respondent – Tahsildar issued Notice dated 26.08.2014 to the petitioners stating that the lands in question are Government lands and meant for the purpose of cultivation and they are under water flow limits and directed them to remove the constructions made therein, otherwise, appropriate steps would be taken against them. The petitioners submitted their explanation dated 19.09.2014 indicating that they have constructed tin sheds within F.T.L. level of Vallabarao Cheruvu and the subject plots are private patta lands. Thereafter, the 4th respondent, without considering the representation dated 19.09.2014, issued the impugned Notice dated 11.02.2015 under Section 7 of the A.P. Land Encroachment Act, 1905 (for brevity “the Act”) stating that the petitioners are in unauthorized occupation of the lands which belong to the government and directed them to show cause as to why they should not be issued eviction proceedings. Now, the petitioners’ grievance is

that the 4th respondent, without following the due process of law, is threatening them to vacate the lands. Hence, the present writ petition is filed seeking appropriate directions.

Heard the learned counsel for both the parties and perused the material placed on record.

Having regard to the fact that the impugned Notice dated 11.02.2015 issued by the 4th respondent is only a Show Cause Notice and in view of the facts and circumstances of the case, this Court, without going into merits of the matter, deems it appropriate to dispose of the writ petition with the following observations:

“The 4th respondent-Tahsildar is directed to consider the objections / representation said to have been filed by the petitioners on 19.09.2014 and any other further objections that the petitioners may choose to raise and pass appropriate orders thereon. While passing orders, the 4th respondent shall take into consideration the law declared by this Court in Md. Ammanuallah Ghouri v. The Government of A.P. [2013(4) ALD 596]. The sum and substance of the law declared by the Apex Court as well as this Court in various pronouncements is that if the petitioners’ claim of possession over the subject plots is found to be longstanding and they have acquired right and title through valid documents, then the very invocation of Section 7 of the Act is not warranted. Further, even assuming that the petitioners are in possession of the Government lands, the remedy available to the Government for recovery of the possession is not contemplated under the provisions of the A.P. Land Encroachment Act but the Government is required to take recourse to filing a suit for recovery of such lands. At this point of time, there is no reason to doubt that the 4th respondent would ignore various pronouncements made by this Court in interpreting the provisions of Land Encroachment Act.”

With the above observations, the writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of

as infructuous.

CHALLA KODANDA RAM, J

25.02.2015

bcj