

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.21704 of 2015

ORDER:

Heard.

The petitioner questions the action of the respondents alleging that the 3rd respondent is trying to demolish her house bearing No.1-235, in Sy.No.185/3 situated at Main Road, Kalakada Village and Mandal, Chittoor District. The petitioner states that she was given house site patta in respect of 1½ cents vide proceedings of the then Mandal Revenue Officer, dated 28-06-2005, on which she has constructed RCC building and is residing for the last nine years. She states that on 05-07-2015, a notice under Section 6 of the A.P.Land Encroachment Act (for short 'the Act') was served on her. Hence, questioning the said action of the 3rd respondent, the present writ petition is filed for a direction not to demolish her house.

Learned Government Pleader has received instructions, which state that since Sy.No.436 is classified as Tank poramboke, notices were issued to various encroachers including the petitioner. But, the encroachers refused to take notices and hence, substitute service was made by affixing the notices to the wall of the houses. Thereafter, no explanation was offered. Hence, orders under Section 6 were passed calling upon the encroachers to vacate the tank poramboke land.

It is evident that the petitioner has not filed any explanation to Section 7 notice issued earlier and if she really claims that she is a house site patta holder and constructed a house after obtaining permission from the Gram Panchayat and paying house tax etc., she ought to have submitted explanation before the 3rd respondent. But, in the absence of such explanation, the 3rd respondent has passed the order under Section 6 of the Act. The petitioner has, therefore, to avail the remedy of appeal under Section 10 of the Act and seek appropriate orders from the appellate

authority.

Learned counsel for the petitioner seeks direction similar to W.P.No.21332 of 2015, dated 10-07-2014.

However, in that case it was found that without giving notice under Section 7 of the Act, straight away orders were passed under Section 6 of the Act. In those circumstances, the said writ petition was disposed of giving directions. However, in the present case, even according to the petitioner, Section 7 notice was given, copy of which is filed in the writ petition and it is followed by Section 6 notice.

Hence, giving liberty to the petitioner to avail appellate remedy, the writ petition is disposed of. It is made clear that the petitioner is at liberty to seek appropriate interim order from the appellate authority, in the appeal, which is permitted to be filed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 16-07-2015

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

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