

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.33512 OF 2014

O R D E R:

The order of eviction dated 16.10.2014 passed by the Tahsildar, Kothagudem, who is 2nd respondent herein, vide proceedings in Rc.No.B/3502/2014 under Section 6 of the Land Encroachment Act, 1905 (in short “the Act”), is challenged by the writ petitioner on the ground that the petitioner had not been given an opportunity of hearing and his oral explanation was not considered.

It is the specific case of the petitioner that on receiving the impugned notice, petitioner approached the Tahasildar-2nd respondent and informed him that he purchased the property through Registered Sale Deeds dated 16.03.2012 and 25.09.2012 and in fact a request was also made to mutate his name in the revenue records. As a matter of fact, mutation proceedings have also been completed and his name was entered and pattadar passbook and title deeds were also issued vide proceedings of the 2nd respondent dated 15.02.2014. In fact, when he approached the Tahasildar, the Tahasildar informed him that he would visit the site and thereafter would provide personal hearing. Petitioner being a simple ryot has believed the version of the official and thereby he did not submit any written explanation as such. However, the fact remains that pattadar passbooks were issued in his favour and the method and manner of his acquisition is already been in the knowledge of the 2nd respondent on account of the fact he had made an application in prescribed form seeking mutation of his name in the revenue

records. In those circumstances, the 2nd respondent is required to consider the fact that the petitioner had purchased his property under Registered Sale Deeds, and that aspect of the matter has not been dealt by the 2nd respondent in the impugned order dated 16.10.2014. It is the specific case of the petitioner that if any opportunity had been given to him, he would have made his detailed submission.

The learned Assistant Government Pleader contends that there is an appeal provided under Section 10 of the Act to the Joint Collector and petitioner as well can urge all these aspects before the Joint Collector.

Having considered the respective submissions of the learned counsel and in the absence of a counter affidavit having been filed in spite of opportunity given to the respondents, I am not inclined to grant further time. Considering the fact that the petitioner is an agriculturist and he has no reason to make a false statement before this Court and in the absence of specific counter affidavit denying the allegations in the affidavit, the interest of justice would be served if the impugned order is set aside giving liberty to the 2nd respondent to pass orders after taking into consideration of the explanation that may be submitted by the petitioner. Petitioner also may be provided with an opportunity of hearing if he so desires.

With the above direction, writ petition is disposed of at the admission stage. There shall be no order as to costs.

Consequently, the miscellaneous petitions filed in this writ petition shall also stand closed.

CHALLA KODANDA RAM, J

Dated:02.02.2015.
Ssv