

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.11165 & 11174 of 2005

COMMON ORDER:

These two cases are being disposed of by this common order in view of the common issue involved in both the writ petitions. The petitioners challenge the orders of eviction, dated 02.05.2005, passed under the Andhra Pradesh Land Encroachment Act, 1905 (for short, 'the Act').

2. It is the case of the petitioners, who are brothers, that their forefathers are in possession and enjoyment of the land to an extent of Ac. 9.00 in Survey No.57 of Morampalli Bazar, Burgampad Mandal, Khammam District, for more than seven decades. The petitioners divided the land in equal shares and they have been in possession and enjoyment of the same. The Mandal Revenue Officer, Burgampad Mandal, Khammam District (1st respondent) also granted pattas in their favour to an extent of Ac. 2.30 cents each, situated in Survey No.57/1 of Morampalli Bazar, Burgampad Mandal, Khammam District. Due to political rivalries, a notice under Section 7 of the Act was issued by the first respondent on 25.02.2005 and directed the petitioners to attend his office on 12.03.2005. The petitioners attended the enquiry on the said date and they were directed to file their objections by the date of next hearing, but the date of next hearing was not intimated to them. While so, the petitioners received an order under Section 6 of the Act passed by the first respondent on 02.05.2005, which is in a proforma without indicating any reasons with regard to the claim made by the petitioners.

3. Though a remedy of appeal is available to the petitioners, in view of the lack of opportunity to the petitioners to

represent their case and in view of the nature of the order passed in a proforma, this Court is inclined to allow these writ petitions by setting aside the order of the first respondent, dated 02.05.2005. If the first respondent wants to take proceedings under the Land Encroachment Act, 1905, it is needless to observe that he shall issue appropriate notice, provide sufficient opportunity to the petitioners to submit their case and pass a reasoned order. Till then, the possession of the petitioners shall not be disturbed.

4. With the above directions, the Writ Petitions are allowed. The miscellaneous petitions, if any, pending in these writ petitions shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

Date: 6th March, 2015

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