

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

FRIDAY THE TWENTYEIGHTH DAY OF AUGUST
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 27481 OF 2015

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Between:

Pamula Ramulu & Ors.	...	Petitioner
V/s.		
State of Andhra Pradesh Represented by its District Collector West Godavari at Eluru & Ors.	...	Respondents

Counsel for the Petitioners: Satyanarayana	Sri Nimmagadda
Counsel for the Respondents:	Govt.Pleader for Revenue

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 27481 OF 2015

ORDER:

Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue.

2. The petitioners assail notice dated 03/08/2015 issued by third respondent under section 7 [a] of A.P. Land Encroachments Act, 1905 as illegal and irregular. The third respondent by reference to notice dated 03/8/2015 is arbitrarily proceeding to demolish the existing structures covered by the notice/dispossess the petitioner therefrom.

3. The learned counsel for the petitioners contend that the requirement of law is that the third respondent issues individual notices to all the alleged encroachers of the property if he intends to remove objectionable encroachments. According to him by reference to a notice alleged to have been affixed on the notice board of Gram Panchayat, the action complained in the writ petition is being taken up by the third respondent and the threatened action is illegal and unconstitutional.

4. The learned Assistant Government Pleader from the

material available on record submits that the petitioners appear to be in settled possession of subject matter of writ petition and before either evicting them or demolishing the structures covered by the notice, the petitioners are certainly entitled to opportunity of hearing and appropriate orders are passed. According to him, the third respondent might have served individual notice as well.

5. I have perused the material available on record.

6. Admittedly the petitioners are in possession of small extents of Government land have not only constructed houses and are in actual and physical possession of the houses. The third respondent has decided to proceed against the petitioners in accordance with law and thereby issued notices to petitioners. That being so, the third respondent is under legal obligation not only see that justice is done but seen to have been done. The procedure adopted by third respondent to effect service of notice does not satisfy the requirements of fair play or procedure. In the case on hand, to meet the ends of justice, this Court is of the view that the following order would suffice.

(i) The petitioners are given three weeks time from today to submit explanation against the notice dated 03/08/2015;

(ii) The third respondent affords reasonable opportunity as provided by the Land Encroachment Act, 1905 to the petitioners, and passes appropriate orders;

(iii) The third respondent is directed to consider whether there is necessity to remove the existing encroachment or not; and

(iv) In the event of any order for eviction is passed and communicated to parties the same shall not be given effect to for a further period of thirty days to enable the petitioners to workout the remedy of appeal etc., available under the Act.

7. With the above directions, the writ petition is disposed of at the stage of admission. No order as to costs.

8. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE S.V. BHATT

28/08/2015

ISL

NB: Issue CC in a week.

HONOURABLE SRI JUSTICE S.V. BHATT

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