

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.37280 of 2015

ORDER:

Heard.

The petitioners question the order of the 2nd respondent, dated 12-03-2015, whereunder the revision petitions filed by the petitioners were dismissed as not maintainable. Though the learned counsel for the petitioners raised contentions on merits, it is evident from the record that the initial order under Section 6 of the A.P.Land Encroachment Act, 1905 (for short 'the Act') was passed by the 4th respondent on 18-01-2008 against which the petitioners filed appeals, which were heard and disposed of by the Sub-Collector, Gudur on 11-04-2008 and questioning that orders, the petitioners filed eight separate revisions before the 2nd respondent and all those revisions were dismissed by separate identical orders, as the impugned order herein.

Though the petitioners have filed this writ petition by paying separate court fee, there are six different identical orders of the 2nd respondent that are questioned in this writ petition.

Though filing of a single writ petition by different petitioners against separate identical orders ought not to have been permitted by the Registry, in view of the fact that the writ petition has already been heard and in view of the legal position as set out, this writ petition is disposed of with the following directions:-

Under the Act, if the primary authority is the Tahsildar/Mandal Revenue Officer, he is empowered to initiate action against the encroachers by issuing a Show Cause notice under Section 7 of the Act, and after considering the explanation of all the persons to whom the notices were issued, if the Tahsildar is not satisfied with the explanation, he is required to pass a further order under Section 6 of the Act, ordering eviction. An appeal against such order of eviction lies before the Collector under Section 10 of the Act. Similarly, if the primary authority for exercising powers

under Sections 7 and 6 of the Act happens to be the Collector, then an appeal against the order of eviction passed by the Collector, lies before different appellate authorities. Therefore, an appeal against an eviction order under Section 6 of the Act lies to an appellate authority keeping in view the original authority who passed orders under Section 7 and 6 of the Act. However, on exhaustion of appellate remedy, no further appeal thereafter is provided under the Act, except a revision which lies before the Government under Section 12-A of the Act.

In the present case, against the orders passed by the 4th respondent under Sections 7 and 6 of the Act, in the capacity of primary authority, the petitioners had already filed appeals, which were dismissed and thereby the appellate remedy provided under Section 10 of the Act already stood exhausted, and as such the said order of dismissal could have been challenged by the petitioners only by way of a revision before the Government as provided under Section 12-A of the Act and not before the 2nd respondent, as has been done in the present case.

In that view of the matter, the impugned order of the 2nd respondent holding the revision petition as not maintainable is clearly justified and warrants no interference.

The writ petition is, therefore, dismissed. However, the petitioners are at liberty to avail the remedy of revision provided under Section 12-A of the Act, within one week from today. *Status quo* existing as on today with respect to the land in question shall be maintained for a period of one week from today to enable the petitioners to avail the revisional remedy.

Miscellaneous petitions, if any, pending shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 17-11-2015

Note:

Issue C.C. in two days

(B/o)

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

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17-11-2015

Prv

