

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

THURSDAY, THE NINETH DAY OF APRIL TWO THOUSAND AND FIFTEEN

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.120 of 2010

Between:

P.B. Srinivas,

S/o. Late R.J. Sanyasi Raju,

Aged about 50 years, Occ: Agriculture,

R/o. Makkuva Road, Salur,

Vizianagaram District.

.. Petitioner

AND

The Tahsildar,

Salur, Vizianagaram District & another

.. Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.120 of 2010

ORDER:

This writ petition is instituted challenging the notice issued to the petitioner by the Tahsildar, Salur, in Proceedings Lr.No.710/2009.A, dated 04.01.2010. By the said notice, the petitioner was informed that he encroached land to an

extent of Ac. 0.04 cents in Survey No.216/1C of Gumadam Village, Salur Mandal, Vizianagaram District, which belongs to Government and unless the petitioner vacates the land within three (3) days, he would be evicted forcibly and any constructions made on the same would be removed.

2. Learned counsel for the petitioner contends that the notice, dated 04.01.2010, is *ex facie* illegal and is liable to be set aside on the sole ground that notice only grants three days time for vacation and it has not given an opportunity of hearing to the petitioner. Learned counsel for the petitioner further submits that the petitioner has constructed a house after obtaining due permission. Such permission was granted on 07.04.2007.

3. As seen from the notice issued to the petitioner, dated 04.01.2010, it proceeds on the assumption that the petitioner is in unauthorized occupation of Government land and he should be evicted. Though it is coined as notice, but it is a decision compelling the petitioner to vacate. Hence, it cannot be said that the petitioner has no cause to invoke the jurisdiction of this Court.

4. As stated by the respondents in the counter affidavit filed, they admit of the fact that a building is existing on the piece of land, which according to the respondents is in unauthorized occupation.

5. Having regard to the fact that the building permission was obtained and the building was already constructed and the petitioner is living, in all fairness the respondents ought to have given him notice calling upon his explanation to satisfy the respondent authorities that the land on which such building was constructed is owned by him and is not in unauthorized occupation. It is also appropriate to notice that land to an extent of Ac. 5.58 cents in Survey No.216/1C originally belongs to the petitioner's family, but was acquired by way of Award No.1 of 1986 for establishing Leprosy Colony. Therefore, it cannot be said that opportunity of hearing is an empty formality. Thus, an opportunity ought to have been given to the petitioner to satisfy whether the extent of Ac.

0.04 guntas, which is now alleged to be in unauthorized occupation of the petitioner belongs to the petitioner or was forming part of Ac. 5.58 cents acquired from the petitioner by way of Award No.1 of 1986.

6. Having regard to the same, the impugned notice, dated 04.01.2010, be treated as a show cause notice. The petitioner shall submit detailed explanation in support of his claim that the land belongs to him and also by enclosing supporting material and on receipt of such explanation, the Tahsildar, Salur, Vizianagaram District (1st respondent) shall consider the same. After giving an opportunity of personal hearing to the petitioner, he shall take appropriate decision, as warranted by law. The petitioner shall submit such explanation within a period of four (4) weeks from the date of receipt of a copy of this order. Until an order is passed after considering the explanation and personal hearing, *status quo* obtaining as on today shall be maintained.

7. The Writ Petition is, accordingly, allowed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 9th April, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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Date: 9th April, 2015

