

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

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WRIT PETITION No.23862 OF 2015

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Between:

Sunkara Srinivas.

.. Petitioner

And

The State of A.P., and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 05-08-2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

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|---|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Lordship wish to
see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.23862 of 2015

ORDER:

Heard.

The petitioner questions the notices, dated 20-07-2015 and 22-07-2015 issued by the 3rd respondent under Sections 6 and 7 of the A.P.Land Encroachment Act (for short 'the Act'), on the ground that they are contrary to the provisions of the Act. The petitioner states that he is residing at premises bearing H.No.4-107 situated at Narava Village, Gantyada Mandal, Vizianagaram District and claims that the said property belongs to his father and his family and they are staying there for the last forty years. It is stated that the above referred notices were affixed on the door directing the petitioner to evict from the said premises. The petitioner questions the same by approaching this Court by way of present writ petition.

Learned Government Pleader has received instructions, which state that the petitioner appears to have made construction in the road margin and therefore, he was given a notice, dated 20-07-2015, under Section 7 of the Act followed by notice, dated 22-07-2015, under Section 6 of the Act, which were affixed on the door of the aforesaid premises.

The dates of Sections 6 and 7 notices referred to above show that both the said notices are issued by the 3rd respondent in violation of the provisions of the Act. The 3rd respondent ought to have given Section 7 notice to the petitioner giving him an opportunity to submit explanation, if he has encroached any road margin, and after consideration of the explanation, he would have passed appropriate orders either dropping the proceedings or passing orders under Section 6 of the Act. However, in the present case, while Section 7 notice is of dated 20-07-2015 and the same is followed by Section 6 notice issued after two days of Section 7 notice directing eviction. Such orders, therefore, cannot be appreciated and are liable to be

set aside and are accordingly set aside. The 3rd respondent is at liberty to issue fresh notice to the petitioner under Section 7 of the Act giving him an opportunity to submit explanation and thereafter pass appropriate orders in accordance with law.

Accordingly, the writ petition is disposed of.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V.AFZULPURKAR, J

Date: 05-08-2015

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.23862 of 2015

05-08-2015