

**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.22946 OF 2015

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Between:

Tanguturi Ravi Sesha Sai and another.

.. Petitioners

And

The State of A.P., and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 14-08-2015

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.22946 of 2015

ORDER:

Heard.

The petitioners are aggrieved by the notice issued under Section 6 of the A.P.Land Encroachment Act, 1905 (for short 'the Act') on 02-06-2015. Prior to the said notice, it is stated that the petitioners were given notice, dated 15-05-2015 under Section 7 of the Act. But, however, the said notice does not appear to have been served on the petitioners and it is served by way of publication in the Panchayat Office on 16-05-2015, as is evident from the endorsement of the Panchayat Secretary of Gram Panchayat, Eluru. The primary ground raised by the petitioners in the writ petition is that their grandmother bequeathed the land admeasuring Ac.0-40 cents in Sy.No.197/1 in their favour under registered Will, dated 14-07-1998 and since then, they have been in continuous possession and enjoyment of the said land. It is stated that earlier, when attempts were made to dispossess the petitioners, they had filed W.P.No.5953 of 2012 and this Court by order, dated 05-03-2012, passed an interim order not to dispossess the petitioners, except in accordance with law. Thereafter also, since there were attempts to dispossess the petitioners, they have filed C.C.No.1152 of 2014 and the same is pending before this Court. The petitioners now state that straightaway notice under Section 6 of the Act was issued on 02-06-2015 directing the petitioners to vacate from the said land and the 3rd respondent is also pressurizing to vacate from the land in question. The petitioners also raised a ground that they had no opportunity to submit explanation to the notice issued under Section 7 of the Act, as it was not personally served on them.

The writ petition was adjourned on three occasions to enable the learned Government Pleader to verify as to whether any reasoned order is passed under Section 6 of the Act. However, no instructions are forthcoming. Therefore, no order, as contemplated under Section 6 of the Act has been passed. Hence, there is no other option except to set aside the impugned notice and it is accordingly set aside.

Since it is stated that the petitioners are served with notice under Section 7 of the Act by substitute service, the petitioners are at liberty to submit explanation within two weeks from today and thereafter, the 3rd respondent would consider the same and pass appropriate reasoned order in accordance with law.

Accordingly, the writ petition is disposed of. No costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 14-08-2015

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.22946 of 2015

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14-08-2015

Prv