

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.27064 OF 2015

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ORDER:

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

The petitioners, who claim to be in possession of the Government land admeasuring Ac.1.83 cents in Survey No.141/3 of Yendapalli Village, U.Kothapalli Mandal, East Godavari District, have approached this Court by the present Writ Petition alleging that the order under Section 6 of the Andhra Pradesh Land Encroachment Act, 1905 (for short, 'the Act') and the notice under Section 7 are served on the same day.

In view of the said averment, on 25.08.2015, this Court, while granting interim direction not to enforce the order under Section 6 of the Act, if it was not executed by that date, permitted learned Government Pleader for Revenue to get instructions.

Learned Government Pleader for Revenue, on instructions, submits that the petitioners were given show cause notice on 06.04.2015 under Section 7 of the Act and as they did not respond, subsequently eviction order under Section 6 of the Act was passed on 13.04.2015 directing the petitioners to evict the land within seven days on the ground that the said land is part of a tank and described as Peddintamma Cheruvu. It is also stated that after passing of the aforesaid order, the Village Revenue Officer, Yandapalli, has not permitted the petitioners for plantation of paddy crops.

Keeping in view the proximity of the dates, namely, 06.04.2015 and 13.04.2015 between notice under Section 7 and order under Section 6 of the Act, it is apparent that even if the appropriate proceedings under the Act were justified and the petitioners allegedly occupied a part of the tank, the

4th respondent ought to have given sufficient time to submit their explanation and thereafter further proceedings under Section 6 of the Act would have been taken up after considering the petitioners objections/explanation. However, within close proximity of 06.04.2015, eviction order was passed on 13.04.2015 and, hence, the

same cannot be approved.

Therefore, the order, dated 13.04.2015, passed under Section 6 of the Act is set aside. The petitioners are granted two weeks time to submit their explanation to the 4th respondent to the notice, dated 06.04.2015, issued under Section 7 and thereafter the 4th respondent shall pass an appropriate order after considering the explanation, if any submitted by the petitioners and thereafter follow further steps in accordance with law.

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.

VILAS V.AFZULPURKAR, J

05.10.2015

Note:- Issue C.C. in three days.

(B/o)

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