

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No. 5118 of 2015

DATE: 03.03.2015

Between:

Kumara Muddurayulu

.. Petitioner

And

1. The State of A.P.
 2. The Revenue Divisional Officer
 3. The Tahsildar
- Respondents

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ORDER:-

The petitioner claims to have been in possession and enjoyment of an extent of Ac.4.50 cents of land in Sy.No.11/2 situated in Krishnapuram village, Renigunta Mandal, Chittoor District for the past 30 years and at present there is standing crop of sugarcane in the land. While so, it is stated that the petitioner made an application for grant of DKT patta, but the 3rd respondent-Tahsildar did not consider his application on the ground that the Government issued orders imposing ban on the issuance of pattas as notified under Section 4(1)(c) of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. Now, the grievance of the petitioner is that the 3rd respondent issued a Notice dated 21.02.2015 under Section 7 of the A.P. Land Encroachment Act, 1905 (for brevity "the Act") to show cause as to why he should not be evicted from the land in question. Hence, the present writ petition is filed seeking appropriate directions.

The learned counsel for the petitioner has submitted that in the light of the judgment of the Supreme Court

reported **Government of A.P. v. Thummala Krishna Rao**^[1], the very issuance of Notice under Section 7 of the Act to the petitioner in the facts of the case is illegal and in that view of the matter, the 3rd respondent-Tahsildar has no jurisdiction to issue such notice.

On the other hand, the learned Government Pleader for Revenue submits that the above cited case is distinguishable on facts and in that case the subject land is a private land as claimed by the petitioners therein and the judgment of the Supreme Court in that case has been distinguished in subsequent judgments. He further submits that inasmuch as it is only a notice issued under Section 7 of the Act which is not in the form of final order, it is open for the writ petitioner to file his objections / representation to the impugned notice and the 3rd respondent may be directed to deal with those objections and pass a speaking reasoned order in accordance with law.

It is settled principle of law that any individual who is in occupation of private land must sensitise the authorities concerned by way of filing objections setting out how and in what circumstances notice under Section 7 of the Act could not have been issued particularly on account of their occupation over a long period. In the absence of all these aspects not being raised by the writ petitioner, this Court is not inclined to entertain the writ petition at this

stage. However, having considered the rival submissions and having regard to the specific plea that it is only a notice issued under Section 7 of the Act, this Court is of the opinion that interest of justice would be served if the writ petition is disposed of with the following direction:

“The petitioner is at liberty to file objections / representation within a period of eight weeks from today to the notice issued under Section 7 of the Act and sensitise the 3rd respondent with respect to law declared by the Supreme Court as well as this Court in a large number of cases as to how and in what manner Notice under Section 7 of the Act could have been issued in respect of the lands which are in occupation of private parties over a long period. It is also left open to the petitioner to plead the authority for grant of patta in his favour by considering the fact that he being a landless poor person as claimed by him. On such objections / representation filed by the petitioner, the 3rd respondent shall consider the same and pass a reasoned speaking order under Section 6 of the Act dealing with all aspects that the petitioner may make in his representation. Till such time as reasoned order under Section 6 of the Act is passed, the petitioner shall not be dispossessed from the land in question.”

With the above observation, the writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

CHALLA KODANDA
RAM, J

03.03.2015

bcj

^[1] AIR 1982 SUPREME COURT 1081