

**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.23732 OF 2015

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Between:

Puchakayala Aruna and others.

.. Petitioners

And

The State of Telangana and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 06-08-2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

1. Whether Reporters of Local newspapers Yes/No
may be allowed to see the Judgment?

2. Whether the copies of judgment may be Yes/No
marked to Law Reporters/Journals

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.23732 of 2015

ORDER:

Heard.

The petitioners are aggrieved by issuance of notice, dated 25-06-2015 by the 3rd respondent under Section 6 of the A.P.Land Encroachment Act (for short 'the Act'). Under the said notice, the 3rd respondent directed the petitioners to vacate from the Government land admeasuring 300 sq. yards said to be falling under F.T.L. at Anneparthi Village, Nalgonda Mandal and District, where the petitioners have constructed houses. The petitioners challenge the said notice on the ground that they are the owners of the said houses and are paying taxes regularly. The petitioners state that their houses are in existence and they are constructed 100 years back. It is stated that earlier the 3rd respondent issued notice to the petitioners on 26-08-2014 directing them not to undertake any construction. The petitioners replied to the said notice on 08-09-2014 stating that they succeeded the houses from their ancestors and it is in dilapidated condition and to that extent, the construction is required to be done. However, thereafter, without passing any orders and without issuing any notice under Section 7 of the Act, it is contended that straight away issued the impugned notice under Section 6 of the Act.

Learned Government Pleader was granted time to get instructions and further proceedings in pursuance of the impugned notice are stayed.

Learned Government Pleader, on instructions, states that no notice under Section 7 is issued to the petitioners and straightaway Section 6 notice was served on them, which is impugned hereunder.

Obviously, under the Scheme of A.P.Land Encroachment Act, if the 3rd respondent has any objection with regard to the construction made by the petitioners, he has to give notice under Section 7 of the Act calling upon them to submit explanation and after considering the said explanation, he is at liberty to pass appropriate orders either dropping the proceedings or passing appropriate orders under Section 6 of the Act. But, in the present case, the 3rd respondent straight away issued notice under Section 6 of the Act directing the petitioners to vacate from the land in question. Therefore, the impugned order is set aside. However, the 3rd

respondent is at liberty to follow the procedure, as indicated above, if he desires to take further action against the petitioners.

Accordingly, the writ petition is allowed. No order as to costs.

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

VILAS V.AFZULPURKAR, J

Date: 06-08-2015

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.23732 of 2015

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06-08-2015

Prv