

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.44148 of 2016

ORDER:

It is the case of the petitioners that when the 4th respondent issued a notice to them on 15.10.2016 under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905 alleging that they encroached the land of an extent of Ac.0.02 to 0.05 cents each in Sy.No.45/6 of Rayavaram revenue village, Markapur Mandal, Prakasam District, which was a passage poramboke, the petitioners submitted their objections on 05.11.2016. The 4th respondent, without conducting any enquiry, passed an order on 10.11.2016 directing the petitioners to vacate their respective houses. Challenging the same, the present writ petition was filed.

2. Learned Counsel for the petitioners submits that the impugned order does not contain any reasons and the objections of the petitioners were also not considered.

3. The case of the petitioners is that the husband of the 1st petitioner purchased Ac.0.03 cents of land in Sy.No.45/5 under a registered sale deed dated 01.07.1970 and the vendor of the 1st petitioner's husband purchased the said property under a registered sale deed dated 24.08.1966. The 1st petitioner's husband also purchased another extent of Ac.0.02 cents in the same survey number under another registered sale deed dated 11.10.1984 and he was granted a patta on 28.02.1984. After the death of the husband of the 1st petitioner, the 1st petitioner continued to be in possession of the said property. The 2nd petitioner is the absolute owner and possessor of Ac.0.05 cents in Sy.No.45 having

purchased the same under a registered sale deed dated 28.03.1995 from the original patta holder. The 2nd petitioner constructed a house and is living with his family. Similarly, the 3rd petitioner is in possession of Ac.0.06 cents of land, which is his ancestral property. The 4th petitioner is also in possession of Ac.0.02 ½ cents of land, which is also his ancestral property. When respondents 2 to 4 tried to interfere with their possession, the petitioners filed O.S.No.74 of 2005 on the file of the Principal Junior Civil Judge, Markapur, for permanent injunction and the said suit was decreed on 27.06.2011.

4. In view of availability of alternative remedy of appeal, this Court is not inclined to entertain the present writ petition even though the petitioners established their claim to the property by registered sale deeds and succession.

5. In the circumstances, this Writ Petition is disposed of giving liberty to the petitioners to avail the alternative remedy of appeal, pursuant to the order dated 10.11.2016 passed by the 4th respondent, within a period of thirty days from the date of receipt of a copy of this order. Till the appeal is disposed of, the respondents shall not interfere with the possession of the petitioners. If the petitioners fail to file the appeal within the stipulated time, it is open to the respondents to take appropriate action in accordance with law. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

