

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.25116 OF 2016

ORDER:

Heard.

2. This Writ Petition is filed challenging notice dated 25.07.2016 issued by the fourth respondent—Tahsildar, Malkajgiri Mandal, Ranga Reddy District under Section 6 of the Public Premises (Eviction of unauthorized Occupants) Act, 1971 (for short 'the Act') to the petitioner.

3. It is the case of the petitioner that though respondent No.4 issued the impugned notice stating that she is in unauthorized occupation of the land to an extent of Ac.5-13 guntas in Survey No.5 of Dammaiguda Village, she is not an encroacher or occupier of the same. However, she claims that she is the owner of land to an extent of 527.5 square yards in Survey No.535 part with house bearing No.6-44/2/15 on Plot Nos.14 and 15 situated at Old Alwal Village, Alwal Municipality, Malkajgiri Mandal, Ranga Reddy District, having purchased the same from one Anasuya Bai. It is further submitted that earlier the fourth respondent issued notice dated 25.07.2013 under Section 7 of the A.P.Land Encroachment Act III of 1971 to the petitioner, for which she submitted a reply dated 07.08.2013 and thereafter orders under Section 6 have been passed. Aggrieved by the same, petitioner filed appeal before the Revenue Divisional Officer, Malkajgiri Mandal and the same is pending. While the matter stood thus, the fourth respondent issued notice dated 13.06.2016

to the son of the petitioner calling upon him to appear on or before 08.07.2016, for which the son of the petitioner submitted reply on 14.07.2016. Questioning the said notice, the son of the petitioner filed W.P.No.23398 of 2016.

4. Perusal of both the notices reveal that the fourth respondent issued notice dated 25.07.2013 under Section 7 of the Act III of 1971 and notice dated 25.07.2016 under Section 6 of the Act.

This shows complete non-application of mind on the part of the fourth respondent because he initiated proceedings against the petitioner under the Act and ended the same by issuing notice under another Act.

5. Having regard to the facts and circumstances of the case, this Court deems it appropriate to direct the fourth respondent to hold a preliminary enquiry with regard to the occupation of the petitioner over the land in question and if he finds that the petitioner is in illegal occupation of the same, he can initiate appropriate proceedings under the relevant enactment.

Subject to the above, the Writ Petition is allowed and the notice dated 25.07.2016 is quashed. Miscellaneous Petitions, if any pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE CHALLA KODANDA RAM

August 8, 2016
LMV