

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.39661 OF 2012

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ORDER:

This writ petition is filed challenging the notice in File No.B/301/2010, dated 20.12.2012, issued by the 2nd respondent under Section 6 of the A.P.Land Encroachment act III of 1905 (*for short 'the Act'*).

Learned counsel for the petitioners submits that the impugned order, which was issued under Section 6 of the Act directing the petitioner to vacate the subject lands, is not preceded by any notice under Section 7 of the Act, though it is mentioned in the impugned notice that notice under Section 7 of the Act was served on the petitioners.

Since this Court is considering the issue in respect of violation of principles of natural justice, this Court is not going into other aspects of the matter.

When the matter is listed on 04.04.2016, learned Assistant Government Pleader for Revenue sought time for production of records regarding service of notice to the petitioners before passing the impugned order.

When the matter is listed today, learned Assistant Government Pleader produced the record and page 177 of the said record shows that notice dated 22.01.2011 under Section 7 of the Act was served to the counsel for the petitioners who appeared for the writ petitioners before the Revenue Divisional Officer in proceedings No.D/1331/2010, dated 09.11.2010 by registered post and the postal receipt was also annexed to the said notice.

Learned counsel for the petitioners submits that they have not engaged any counsel before the Tahasildar who issued the impugned notice; and that the petitioners have not received the notice under Section 7 of the Act.

There is no proof that the notice under Section 7 of the Act has been served to the petitioners' counsel who appeared for the petitioners in the appeal before the 1st respondent. More so, there is no postal acknowledgment regarding receipt of the notice by the counsel who appeared for the petitioners in the appeal.

In view of the above facts and circumstances, the impugned order is set aside on the ground of principles of natural justice. However, the 2nd respondent is at liberty to initiate appropriate proceedings after issuing notice to the petitioners as per law. The 2nd respondent shall issue notice to the petitioners on the addresses given in the writ petition, within a period of three weeks from the date of receipt of a copy of this order and on such notice, it is open for the petitioners to file explanation within three (3) weeks thereafter and if any such explanation is received within the aforesaid period, the same shall be considered and appropriate orders be passed by the 2nd respondent, in accordance with law. If no explanation is filed within the aforesaid period, it is open for the 2nd respondent to pass order on merits and take action accordingly.

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

As a sequel thereto, miscellaneous petitions, if any, pending

in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

11.04.2016
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