

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.39270 OF 2016

DATED : 22.11.2016

Between :

Mendi Ramanamma W/o. Late Ramachandra Reddy,
Hindu, Aged 51 yrs,
D.No.29-1-31, Beside Veterinary Hospital,
Korlampeta, Rajamahendravaram,
East Godavari District & others.

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Petitioners

And

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Municipal Administration,
A.P.Secretariat Buildings,
Secretariat, Velagapudi,
Guntur District & others.

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Respondents



This court made the following :

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ORDER :

Alleging that the respondents are forcibly dispossessing the petitioners and demolishing the structures existing in the business premises bearing D.No.29-1-31, beside Veterinary Hospital,, Korlampeta, Rajamahendravaram, and the same is in violation of the decree and judgment in A.S.No.236 of 2006 dated 06.06.2011 on the file of District Court, East Godavari at Rajamahendravaram, without issuing any notice, as illegal, unlawful, arbitrary and violation of fundamental right as well as right to property under Article 300-A of the Constitution of India, this writ petition is filed.

2. When the matter is taken up, learned Government Pleader produced written instructions, furnished to him by the Tahsildar, Rajamahendravaram Urban. The written instructions would disclose that a notice under the Land Encroachment Act (for short 'the Act') was issued to the petitioners on 12.09.2016. As the petitioners refused to receive the same, it was affixed on the premises on that day itself. Since the petitioners did not respond to the notice within the time specified, a final notice of eviction was issued on 19.09.2016. Even this notice was also refused by the petitioners. Therefore, it was affixed on that day and photograph was taken. Final order of eviction was passed on 24.09.2016 and petitioners were evicted by following the due process and a panchanama was drawn recording the proceedings of eviction of the petitioners from the site on 01.10.2016.

3. These facts would disclose that due process was followed under the Act and petitioners were already evicted. Therefore, the contention of the petitioners that they were sought to be evicted without following due process is not true.

4. On 18.11.2016 copies of the notices stated to have been pasted on the wall and copy of panchanama were served on the learned counsel for the petitioners.

5. Since orders are already passed in exercise of power vested under the Act, evicting the petitioners, no orders can be passed at this stage, as sought for by the petitioners. Further Section 10 of the Act vests right in the aggrieved person to prefer appeal against the orders passed under Section 7 of the Act. It cannot be said that the said right of appeal is not effective and efficacious remedy. When there is an effective and efficacious remedy available, this Court is not inclined to entertain the grievance of the petitioners. More so, none of the proceedings initiated under the Act are challenged in this writ petition. Thus, the writ petition is liable to be dismissed and is accordingly dismissed. However, liberty is granted to the petitioners, if so advised, to avail the remedy of appeal as provided under Section 10 of the Act and it is open to the petitioners to raise all the contentions as available in law, against the orders passed by the authorities under the Act. It is also made clear that there is no expression of opinion on merits and all issues are left open to be agitated.

6. Having regard to these peculiar facts, liberty is granted to the petitioners, if required, to move an application for condonation of delay and as and when such application is filed, the appellate

authority shall consider the same objectively and pass appropriate orders on merits. There shall be no order as to costs.

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

22nd November, 2016
Rds

P.NAVEEN RAO,J

