

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

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WRIT PETITION No.2990 of 2016

BETWEEN

Harvest India.

... PETITIONER

AND

The State of Andhra Pradesh, Rep. by its Principal Secretary, Revenue Department, Secretariat, Hyderabad and others.

...RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: 01.02.2016

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals? | No |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | No |

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ORDER:

Petitioner was issued a notice under Section 7 of the Land Encroachment Act (for short 'the Act') dated 13.11.2015. However, admittedly, no explanation was submitted by the petitioner.

2. Learned counsel for the petitioner states and also averred in the affidavit that after the receipt of notice, petitioner personally explained to the third respondent about the factual situation including that the survey number mentioned in the notice is different and that they are not encroachers of the land. However, the impugned notice under Section 6 of the Act dated 27.01.2016 was given requiring the petitioner to vacate the land within 48 hours. Aggrieved thereby, the present writ petition is filed.

3. Assuming that the petitioner has substantial case to defend by way of an explanation, they have not filed appropriate explanation before the third respondent. Consequently, Section 6 order appears to have been passed against the petitioner. Against the said impugned order, petitioner has remedy of appeal, which is efficacious and as such, there is no reason to entertain the writ petition ignoring the said appellate remedy available to the petitioner. However, since it is stated that old age home is being run in the premises, in question, that aspect can be appropriately protected.

4. In view of the above, the petitioner is permitted to avail the appellate remedy as provided against the impugned order.

Petitioner is also at liberty to file appropriate explanation at least before the appellate authority, which shall examine the petitioner's appeal and explanation and take an appropriate decision in the matter. To enable the petitioner to avail the appellate remedy, the impugned order shall remain stayed for a period of four (4) weeks from today within which time the

petitioner shall obtain appropriate further orders from the appellate authority.

The writ petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

February 1, 2016

Note: Furnish C.C. today.

(B/o) DSK