

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**WRIT PETITION No.4066 OF 2010**

**ORDER :**

Petitioner in this Writ Petition is questioning the proceedings No.A/90/2004 dt.16.06.2009 of the 3<sup>rd</sup> respondent.

2. Petitioner contends that the said order has been passed without serving any notice on the petitioner, even though she is the affected party; that earlier, when the petitioner was sought to be evicted from the subject land of an extent of Ac.3-28 cents in survey No.1011/1 of Rangasamudram Village, Porumamilla Mandal, Kadapa District, which had been assigned to her in DKT Patta No.724/71 without issuing any notice to her, she had filed WP.No.13340 of 2004 in this Court; that on 19.12.2008, this Court directed the respondents not to interfere with her possession and enjoyment of that land without following due process of law; and that in spite of the said direction, the impugned order has been passed by incorrectly stating that she left the village and her whereabouts were not known.

3. The Government Pleader for Assignment appearing for respondents states that the notice in Form-1 issued to the petitioner could not be served on her, since she was not in the village and her whereabouts were not known; even the Panchayath Secretary and Village Revenue Officer of

Porumamilla Village certified that she was not available in the village; the notice was then affixed to a stick and planted in the subject land; and thereafter the impugned order was passed after hearing the 5<sup>th</sup> respondent, who is alleged to have purchased the land from the petitioner.

4. The Counsel for 5<sup>th</sup> respondent also supported the stand taken by the Government Pleader for Assignment.

5. Counsel for the petitioner denies the stand of the respondent that she is not a resident of the village, she asserts that she is resident of Porumamilla Village; and the Village Revenue Officer and Panchayath Secretary having issued to her Residence Certificate to that effect, cannot now contend that she is not a resident of the said village. She also denied that the subject lands were sold to the 5<sup>th</sup> respondent and she is not in possession of the same.

6. I have noted the submission of both sides.

7. From the facts narrated above, it is clear that notice prior to the passing of the impugned order dt.16.06.2009 of the 3<sup>rd</sup> respondent has not been served on the petitioner. Service of notice by planting a stick on the land, it is settled law, is not valid service of notice (See ***Dodda Narasimhaiah v. District Collector***<sup>[1]</sup> and ***J.Ramalingam v. Government of Tamilnadu***<sup>[2]</sup>)

8. Since the impugned order has been passed behind the back of the petitioner, there is a clear violation of principles of natural justice.

9. Therefore, the impugned order is set aside; and the matter is remitted back to the 3<sup>rd</sup> respondent to hear and consider the parties afresh; the petitioner as well as the 5<sup>th</sup> respondent are directed to appear before the 3<sup>rd</sup> respondent at 11.00 a.m. on 11.07.2016 in the Office of the 3<sup>rd</sup> respondent and make their written submissions; and then the 3<sup>rd</sup> respondent is directed to pass a fresh order after considering the same in accordance with law and communicate the said order to the petitioner as well as the 5<sup>th</sup> respondent. It is made clear that if the petitioner or the 5<sup>th</sup> respondent do not appear before the 3<sup>rd</sup> respondent on that day and do not submit their representations, it is open to the 3<sup>rd</sup> respondent to proceed to decide the matter ex-parte.

10. The Writ Petition is allowed to the above extent. There shall be no order as to costs.

11. Consequently, miscellaneous petitions pending if any, shall stand closed.

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**M.S. RAMACHANDRA RAO, J**

14<sup>th</sup> June, 2016  
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[\[1\]](#) Manu/AP/0405/2007

[\[2\]](#) 1999(1) LACC 596