

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.29220 of 2012

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue appearing for the respondents.

2. Petitioners question the action of the respondents in threatening to dispossess them from certain house site plots in respect of which they claimed that possession certificates have been issued to the petitioners by 3rd respondent.

3. Along with the counter affidavit filed by 3rd respondent, the copy of orders dt.10-09-2012 passed by the 2nd respondent in Roc.G/4814/2012 is enclosed. The said order states that certain complaints were received that the petitioners were ineligible persons for issuance of such possession certificates, that the land is lying vacant and none of the petitioners have occupied the sites since they are non-residents of the village and have houses elsewhere. The said order refers to a report of the Tahsildar that notices could not be served on the petitioners. It states that since they were not available, notices were got published in Gram Panchayat Office as well as the house sites allotted to the petitioners and other prominent places of the village and then it was determined that the possession certificates were obtained by the

petitioners who are ineligible and so they are liable to be cancelled.

4. Learned counsel for the petitioners contends that no notices proposing cancellation of such possession certificates were served on the petitioners, notices by registered post with acknowledgment due were not sent to the petitioners; that notices by publication through the newspapers was not done. He therefore contends that the action of the respondents in trying to evict the petitioners from the plots allotted to them under the guise of above order dt.10-09-2012 of 2nd respondent cannot be sustained.

5. The learned Government Pleader has not been able to place any material before this Court to show what attempts have been made to serve the notices on the petitioners by registered post with acknowledgement due or by way of substituted service in the local daily newspaper.

6. In the absence of proper service of notices on the petitioners, they cannot be said to be aware of the steps taken by 2nd respondent canceling the possession certificates issued to them. Thus, the Writ Petition is allowed and the order dt.10-09-2012 passed by 2nd respondent is held to be in violation of principles of natural justice and it is set aside.

7. The petitioners shall appear before 2nd respondent on 11-07-2016 at 11 a.m. in his office on which date the respondent Nos.2 and 3 shall serve show cause notices on each of the petitioners; the petitioners are granted three weeks' time from that date to reply to the show cause notices; and thereafter the 2nd respondent shall pass a reasoned order after considering the explanations of the petitioners in accordance with law. If the petitioners do not appear before 3rd respondent on that day or do not file explanations to the show cause notices issued by 2nd respondent, it is open to 2nd respondent to decide *ex parte*. This exercise shall be completed by 2nd respondent on or before 30-09-2016. Till then, the petitioners shall not be evicted from the house sites in their occupation. No costs.

8. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07-06-2016

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