

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

WRIT PETITION No.12971 of 2016

ORDER:

-

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

2. The petitioner has assailed the order dt.13-04-2016 passed under Section 6 of the Land Encroachment Act, 1905 holding that the petitioner is an encroacher in respect of an extent Ac.2.26 guntas in Sy.No.455/1 of Lakshmipuram village, Bhoorgam Pahad Mandal.

3. Petitioner contends that a notice under Section 7 of the said Act was issued on 01-04-2016 granting time till 11-04-2016 to the petitioner to file explanation; that the petitioner fell sick since he is aged about 80 years and his son made a request on 11-04-2016 before the 4th respondent seeking 15 days time to reply to the notice; and that without granting any adjournment, on 13-04-2016 the impugned order has been passed.

4. *Prima facie* the impugned order appears to have been passed in undue haste without waiting for petitioner, who is sick and getting treated in a hospital at Hyderabad,

to submit his explanation to the show cause notice.
Therefore there is a clear violation of principles of natural justice.

5. Accordingly the order dt.13-04-2016 passed by the 4th respondent is set aside and the matter is remitted back to the 4th respondent for fresh adjudication. The petitioner is granted three (03) weeks time from the date of receipt of a copy of this order to file his explanation to the show cause notice dt.01-04-2016 issued by 4th respondent. The 4th respondent shall then pass a reasoned order after considering the petitioner's explanation and communicate the same to petitioner. Till then, petitioner shall not be dispossessed from the subject land.

6. The Writ Petition is allowed as above. No costs.

7. As a sequel, miscellaneous petitions pending if any, in this Writ Petition shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 19-04-2016

Vsv/*