

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.24061 of 2016

-

ORDER:

This Writ Petition is filed challenging notice, dated 13.06.2016 issued by respondent No.4 – Tahsildar, Malkajgiri Mandal, Ranga Reddy District under Section 7 of the Andhra Pradesh Land Encroachment Act III of 1905 (for short 'the Act') to the petitioner stating that he has encroached land to an extent of Ac.0.27 guntas in Survey No.5 situated at Dammaiguda Village, Malkajgiri Mandal, Ranga Reddy District.

It is the case of the petitioner that though respondent No.4 issued the impugned notice stating that he is in unauthorized occupation of aforesaid land, he is not an encroacher or occupier of the same. However, he claims that he is the owner of land to an extent of Acs.7.18 guntas in Survey Nos.6 to 11 of Dammaiguda Village and is carrying on agricultural activities thereon. Admittedly, he did not choose to submit any explanation to the impugned notice.

At the hearing, learned counsel for the petitioner produced before this Court a copy of notice issued by respondent No.4 under Section 6(1) of the Public Premises (Eviction of Unauthorized Occupants) Act,

1971 on 25.07.2016. The same is taken on record.

Perusal of both the notices reveals that respondent No.4 issued notice, dated 13.06.2016 under Section 7 of the Act and notice, dated 25.07.2016 under Section 6(1) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. This shows complete non-application of mind on the part of respondent No.4 because he initiated proceedings against the petitioner under the Act and ended the same by issuing notice under another Act.

In view of the above and having regard to the facts and circumstances of the case, this Court deems it appropriate to direct respondent No.4 to hold a preliminary enquiry with regard to the occupation of the petitioner over the land in question and if he finds that the petitioner is in illegal occupation of the same, he can initiate appropriate proceedings under the relevant enactment.

Subject to the above, the Writ Petition is allowed and the notices, dated 13.06.2016 and 25.07.2016 are quashed.

Miscellaneous Petitions, if any pending in this Writ Petition shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

1st AUGUST, 2016.

kvni