

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.6361 of 2016

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ORDER:

Heard.

The petitioner questions the impugned notice, dated 11-02-2015, passed by the 2nd respondent under Section 7 of the A.P.Land Encroachment Act, 1905 on the ground that he is not an encroacher and a Final Patta Certificate is granted to him vide Ex.P-1, dated 24-07-1988 and he has been in possession and enjoyment of the land covered by the said Patta Certificate. The impugned notice is, therefore, questioned on the ground that the Land Encroachment Act has no application. However, it is seen that the said notice was already replied to by the petitioner as early as on 22-06-2015 mentioning about patta granted to him and the development made by him on the said land. While the said reply is under consideration of the 2nd respondent, alleging that steps are now being taken to dispossess the petitioner and allot the land in question to third respondent, the present writ petition is filed.

I do not see any reason to entertain the writ petition, as the 2nd respondent has jurisdiction to take appropriate action under Section 7 of the Land Encroachment Act if the petitioner falls within the definition of 'encroacher'. The contention of the petitioner that he would fall within the definition of 'land owner' on the basis of Central Act 30 of 2013, in my view, would not arise in the present case, as under the Land Encroachment Act, defines the word 'encroacher' and that enquiry is required to be conducted by the 2nd respondent by taking into consideration the reply submitted by the petitioner to the show-cause notice. Till such reply is considered and appropriate order is passed by the 2nd respondent, there cannot be any dispossession of

the petitioner. Hence, the apprehension of the petitioner cannot be substantiated.

The writ petition is, therefore, disposed of directing the 2nd respondent to consider the explanation of the petitioner and take appropriate decision by passing a reasoned order. Till such order is passed, the petitioner shall not be dispossessed from the land covered by the said notice.

The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No order as to costs.

VILAS V.AFZULPURKAR, J

Date: 29-02-2016

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

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Prv

