

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.3734 of 2016

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Date: 08.02.2016

Between:

Smt.Nati Ganikamma and 23 others

.. Petitioners

and

The State of Andhra Pradesh
rep. by its Prl.Secretary
Revenue & Endowments Dept.
Hyderabad and 5 others

.. Respondents

Counsel for the petitioners : Mr.G.Rama Gopal

Counsel for respondent Nos.1 to 4: AGP for Revenue (AP)

Counsel for respondent No.6: AGP for Endowments

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The Court made the following:

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Order:

Notice No.01/2016-1, dated 03-01-2016, issued by respondent No.5- Devasthanam to petitioner No.24 is the subject matter of challenge in the present Writ Petition.

In the said notice, respondent No.5 alleged that petitioner No.24 and 20 others have been in unlawful occupation of 7382 square yards of land in Survey No.207/3 (for short 'the subject land')belonging to it and that they shall vacate the same within 15 days of receipt of the notice, failing which, they shall be responsible for all the civil and criminal actions that may be taken against them apart from attaching the property under Rule 17 (3) of the Andhra Pradesh Endowments Department Lease Rules, 2003.

Mr.G.Rama Gopal, learned Counsel for the petitioners, submitted that the petitioners were granted pattas by the Revenue Department; that accordingly, they have acquired the legal right to remain in possession of their respective house sites; and that by issuing a notice only to petitioner No.24 without disclosing the names of 20 others, as vaguely mentioned in the impugned notice, respondent No.5 is trying to evict the petitioners

therefrom.

Smt.K.Lalitha, learned Standing Counsel for Endowment Institutions (Andhra Pradesh), has not disputed the fact that except the name of petitioner No.24, the names of 20 others including the other petitioners herein have not been mentioned in the impugned notice.

In my opinion, without holding proper enquiry, after giving notice to the persons in possession of the subject land, respondent No.5 cannot evict them. Such an action would fall foul of the doctrine of due process. Further, a perusal of the impugned proceeding shows that though the same is styled as a notice, it contains a mandatory direction to the lessee that he shall vacate the property in his occupation. Such an action, without issuing a show cause notice and giving an opportunity of personal hearing would be in grave violation of the principles of natural justice.

On the above analysis, if respondent No.5 intends to evict any of the petitioners, it shall issue show cause notices to them including petitioner No.24 and after considering the explanations, if any, filed by them within the time stipulated in the

show cause notice, take a decision. If it comes to the conclusion that the petitioners are liable for eviction, it shall pass a speaking order and communicate the same to the petitioners before physically evicting them.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.4772 of 2016, filed by the petitioners for

(C.V.Nagarjuna Reddy, J)

Dt: 8th February, 2016
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