

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.25242 of 2017

ORDER:

This Writ petition is filed challenging the notice dated 12.07.2017 issued under Section 4(1) of the Public Premises (Eviction of un-authorized Occupants Act-1977) (in short “the Act”) issued by the 3rd respondent-Estate Officer, Divisional Office, Works Branch, Guntakal.

2) It is the specific case of the petitioner that by virtue of Registered Sale Deed bearing Document No. 3684/2011, dated 27.06.2011, she is in possession and enjoyment of the house bearing No.17-504, situated in Sy.No.257/3 of Panagallu Village, Srikalahasti, Panagallu Railway Station Road, Chittoor District. It is also the contention of the petitioner that the identity of the property, which the respondents state as occupied by the petitioner, is different from which the petitioner's shops are located.

3) It is the contention of the learned counsel for the petitioner that the provisions of the Act would not apply.

4) Learned standing counsel appearing for the Railways would submit that the petitioner has illegally occupied the railway land and made constructions. At any rate, he would also oppose the passing of any orders on the ground that it is only show cause notice and it is always open for the petitioner to submit explanation for the same, which shall be considered by the authority in accordance with law.

5) Having considered the respective submissions, admittedly, it is only a show cause notice and it is always open to the petitioner

to raise all the objections before the competent authority. It is made clear that the applicability or otherwise of the Act, by placing relevant facts, may be raised by the petitioner before the adjudicating authority, who shall consider the same strictly within the framework of the Act and the Rules.

6) *Prima facie*, very issuance of notice under the Act discloses that the petitioner is in possession of the subject property. Since it is the allegation of the petitioner that the respondent authorities have been interfering with her possession and enjoyment of the property, it is made clear that until final orders are passed, the respondent authorities shall not interfere in any manner with the possession and enjoyment of the petitioner over the property, for which notice has been issued by the respondent authority. Inasmuch as, the petitioner has already submitted explanation and raised objections, the respondent authority shall conduct enquiry as per the Act and the Rules and pass final orders, on appreciation of the material placed by the petitioner, within a period of 12 weeks from the date of receipt of this order.

7) Accordingly, the Writ Petition is disposed of. No order as to costs.

8) Consequently, miscellaneous petitions, if any pending, in this Writ Petition shall stand closed.

CHALLA KODANDA RAM, J

Date:31.07.2017
Ssv