

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.657 OF 2017

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for the respondents. With their consent, the present writ petition is disposed of at the admission stage.

2. The present writ petition came to be filed with the following prayer:

“...to issue appropriate writ, order or direction, more particularly one in the nature of writ of certiorari calling for the records pertaining to the impugned proceedings issued by the 3rd respondent vide Proceedings No. A/3254/2016, Dt:31-12-2016 served on petitioner on 02-01-2017 and consequently quash the same as being arbitrary, illegal, contrary to Section 7 of the A.P. Land Encroachment Act, 1905 and violative of Articles 14 & 21 of The Constitution of India.”

3. Though various grounds are raised in the writ petition, learned counsel for the petitioner submits that without issuing notice under Section 7 of the A.P. Land Encroachment Act, 1905 (for short, 'the Act'), the respondent authorities have passed the impugned order under Section 6 of the Act directing the petitioner to vacate the subject land within three (03) days from the date of service of notice.

4. Learned Government Pleader for Revenue would submit that the impugned notice dated 31.12.2016 may be treated as a notice under Section 7 of the Act and since the petitioner has already submitted explanation to the notice on 02.01.2017, the authorities may be directed to pass orders thereon.

5. From the material placed before this Court, it is clear that without issuing any notice under Section 7 of the Act, the notice dated 31.12.2016 came to be served on the petitioner on 02.01.2017. On the very same day, the petitioner submitted an explanation, which according to the petitioner does not contain all the facts, which are necessary for deciding the issue, as it was submitted in a hurried manner.

6. Having regard to the fact that the impugned proceedings came to be issued directly under Section 6 of the Act without giving a notice under Section 7 of the Act, the respondent authorities shall consider the notice issued under Section 6 of the Act as the notice under Section 7 of the Act and then consider the explanation dated 02.01.2017 submitted by the petitioner along with additional explanation, which the petitioner intend to submit within ten (10) days from today, and pass appropriate orders thereon, in accordance with law, at the earliest. It is needless to mention that the petitioner shall also be given an opportunity of personal hearing before passing any order basing on the explanation submitted by

the petitioner. Till such time, the respondent authorities shall not take any steps to dispossess the petitioner from the subject land.

7. Accordingly, the Writ Petition is disposed of.

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

JUSTICE C. PRAVEEN KUMAR

Date:05.01.2017

Note: Furnish CC in two (02) days.

(B/O)
INL

