

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.14296 OF 2017

ORDER:

The case of the petitioner is that he completed MBBS course in the year 1980 and started a clinic in the Sangam Village and doing medical practice. As he is also interested in the agriculture, he purchased agricultural lands to an extent of Ac.3.76 cents in Sy.No.397-1 and an extent of Ac.13.22 cents in Sy.No.397/3 and an extent of Ac.7.39 cents in Sy.No.399/1, totaling to an extent of Ac.24.37 cents in the Sangam Village and cultivating the said lands by raising paddy crop. His wife also purchased an extent of Ac.11.05 cents in Sy.No.399/1, an extent of Ac.3.76 cents in Sy.No.397/1 and an extent of Ac.13.22 cents in Sy.No.397/3, totaling to an extent of Ac.27.51 cents and both of them are in peaceful possession and enjoyment of the aforesaid lands without there being any objection from the date of purchase till date. It is further submitted that adjacent to their lands in Sy.Nos.1/1A, 1B, 1C and 395 of Sangam Village, there is a poramboke land to an extent of Ac.3.00 cents which belongs to the Government and that the said land is lying as a waste land. As such, the petitioner made an application dated 11.02.2011 to the Mandal Revenue Officer requesting to allot the said land to an extent of Ac.3.00 cents on payment of market value as the same is not useful to any other person. But no orders are passed on the same till date. While the

things stood thus, the 5th respondent issued notice dated 07.04.2017 to the petitioner under Section 7 of the Land Encroachment Act, 1905 alleging that the petitioner has encroached the canal poramboke land to an extent of Ac.2.00 cents out of Ac.9.35 cents in Survy No.395 of Sangam Village. Aggrieved by the same, present writ petition is filed.

Learned counsel for the petitioner submits that though the application of the petitioner for allotment of the subject land is pending before the RDO, the 5th respondent issued notice under Section 7 of the Land Encroachment Act.

On the other hand learned Government Pleader for revenue submits that it is only a notice and petitioner can submit explanation to the same.

Normally, this Court will not interfere at the stage of show cause notice. In view of the aforesaid facts and circumstances, it is open for the petitioner to file explanation stating all the facts before the 5th respondent and on such explanation being filed by the petitioner, the 5th respondent shall consider the same and pass final orders after issuing notice and affording opportunity of hearing to the petitioner. Till passing of orders, the petitioner shall not be evicted from the subject land. Meanwhile, the 4th respondent shall dispose of the application dated 11.02.2011 submitted by the petitioner seeking allotment of the subject land, in accordance with law.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

20.04.2017
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A.RAJASHEKER REDDY, J

