

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SMT. JUSTICE T. RAJANI

WRIT APPEAL No.833 OF 2017

JUDGMENT: (per Hon'ble the Acting Chief Justice Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P. No.20134 of 2017 dated 21.06.2017. The appellant herein is the petitioner in the Writ Petition wherein he sought a mandamus to declare the notice of the Mandal Tahsildar dated 31.05.2017 as illegal and arbitrary and for a direction to the Revenue Divisional Officer and the Mandal Tahsildar not to interfere with the running of the school.

The petitioner claims to have established a school more than 35 years ago, and to be running it ever since 1983. The school is said to be affiliated to the Central Board of School Education, New Delhi and to have a total strength of 650 students. The Tahsildar issued the impugned notice on 31.05.2017 informing the appellant that the school building was constructed unauthorisedly without Government permission, over an extent of Ac.10.00 cts in Dachepalli Mandal; even without permission, the subject Government land was occupied; and the petitioner should vacate the said Government land immediately, otherwise legal action would be taken against them.

In the order under appeal, the Learned Single Judge observed that, in reply to the notice issued by the Tahsildar, the appellant-writ petitioner had given his explanation to the 3rd respondent; the petitioner was given a further opportunity of one week to submit his explanation; and, thereafter, it was open to the 4th respondent to proceed in the matter as circumstances warrant, in accordance with law.

Before us Sri K. Raja Reddy, Learned Counsel for the appellant, would submit that the jurisdiction conferred on the Tahsildar to evict encroachers, under Section 7 of the A.P. Land Encroachment Act, is only if occupation of Government land is unauthorised; the word “authorised” means for a “justifiable purpose”; the school was established by the then management of Andhra Cements in discharge their corporate social responsibility; establishment of a school is in furtherance of the directive principles of State policy; tax is also being paid by them to the local body; Section 26(1) of the A.P. Education Act requires notice to be given, to private educational institutions, of atleast one year for it to close down; and since the land is being utilised for the purpose of running a school, the respondents were not justified in seeking to evict the appellant from the subject land.

The fact that the subject land is Government land is not in dispute. The contention urged is that, since the subject Government land is being used for the purpose of a school, Section 7 of the A.P. Land Encroachment Act is not attracted; the notice issued by the Tahsildar would not suffice as Section 26(1) requires notice to be given to them, atleast one year in advance, for them to close down; and the Learned Single Judge has erred in directing the appellant to file their explanation, and the respondent-Tahsildar thereafter to take action in accordance with law.

All the contentions now urged before us can as well be urged before the Tahsildar, who is bound to consider the same, and pass a reasoned order in accordance with law, before taking any coercive steps in this regard. We find no error in the order under appeal, much less a patent illegality justifying interference in an intra-Court appeal under

Clause 15 of the Letters Patent. The Writ Appeal fails and is, accordingly, dismissed.

Sri K. Raja Reddy, Learned Counsel for the appellant, requests further time for the appellant to submit his explanation. If the appellant-writ petitioner submits his explanation within ten days from today, the Tahsildar shall consider the same, and pass a reasoned order in accordance with law. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

T. RAJANI, J

Date: 29.06.2017.
MRKR

