

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.25509 of 2017

DATED : 01.08.2017

Between :

Janapureddy Ramamurthy Naidu S/o.Late Suryanarayana,
Hindu, Aged 45 yrs, Cultivation,
R/o.Boddam Village & P.O.,
Vepada Mandal, Vizianagaram District, A.P.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by its Principal Secretary (Revenue),
A.P. Secretariat,
Velagapudi, Guntur District & others.

.. Respondents



This court made the following :

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ORDER :

Heard. With the consent of both counsel the writ petition is disposed of, at the admission stage.

2. Petitioner was served notice under Section 6 of the A.P. Land Encroachment Act, 1905, alleging that he was in unauthorised occupation of the land specified in the notice, and calling upon the petitioner to submit his explanation.

3. According to learned counsel for the petitioner, a detailed explanation dated 14.07.2017 was submitted by the petitioner through an Advocate and the said explanation was received by the office of Tahsildar, Vepada village, Vizianagaram District, on 17.07.2017. However, the explanation was not considered and an order was passed on 20.07.2017. A reading of the order would show that his explanation was not received by the Tahsildar. Learned counsel therefore, submits that even without considering the explanation filed, the Tahsildar hurriedly passed orders and the same is not valid in law.

4. A perusal of the postal acknowledgement filed by the petitioner would show that the office of the Tahsildar received the explanation on 17.07.2017. Thus, by the time, the order was passed by the Tahsildar, his office was already in receipt of explanation. As seen from the order of the Tahsildar, in the first page the date was typed as 18.07.2017 and in the last page, just before the signature appended to the proceedings, it was typed as 20.07.2017. Thus, even if 18.07.2017 is taken as valid date, by

then the office of the Tahsildar was in receipt of the explanation. Therefore, the observation made by the Tahsildar that no explanation was filed is erroneous.

5. Having regard to this, the order under challenge is set aside and the matter is remitted back to the Tahsildar for passing orders afresh, on due consideration of explanation submitted by the petitioner through advocate dated 14.07.2017 and pass orders by assigning reasons in support of his decision.

6. Till a decision is made as directed above, petitioner shall not undertake any further construction in the subject property. He shall file an affidavit before the Tahsildar, within one week from today, undertaking not to make any further construction.

7. With the above directions, the Writ Petition is allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

1st August, 2017
Rds

P.NAVEEN RAO,J