

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

**W.V.M.P.No.4161 of 2017 in W.P.No.27024 of 2017 &
W.P.No.27024 of 2017**

**W.V.M.P.No.4150 of 2017 in W.P.No.27041 of 2017 &
W.P.No.27041 of 2017**

**W.V.M.P.No.4159 of 2017 in W.P.No.27056 of 2017 &
W.P.No.27056 of 2017**

&

**W.V.M.P.No.4154 of 2017 in W.P.No.27071 of 2017 &
W.P.No.27071 of 2017**

COMMON ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue, appearing for respondents

2. In all these Writ Petitions, petitioners assail orders passed under Section 6 of the A.P. Land Encroachment Act, 1905 by 4th respondent holding that the petitioners are encroachers and they should vacate the lands in their occupation.

3. It is not in dispute that to the show cause notice under Section 7 of the Act issued to each of the petitioners, objections were filed through a reply notice dt.28-07-2017 specifically taking a plea that the land in question was acquired by the petitioners' grandfathers more than 50 years back and was in the occupation of the petitioners' family since then.

4. Without adverting to this contention, the impugned orders have been passed in each of these cases directing the petitioners to vacate the land.

5. In the counter affidavit filed by 4th respondent, he has also stated that on oral orders issued by the Member of Legislative Assembly, Unguturu Assembly Constituency, action was initiated against the petitioners.

6. It is therefore clear that 4th respondent had acted under the dictation of the Member of the Legislative Assembly and has not independently applied his mind as to whether the defence of the petitioner is valid defence or not. It is settled law that the summary procedure under the Act cannot be invoked to evict persons in long standing possession. (**Government of A.P. Vs. Thummala Krishna Rao and Another¹**).

7. Also it was incumbent on the 4th respondent to give reasons in the impugned order why he is not accepting the objections filed by the petitioners. But there are no reasons assigned in the orders.

8. Therefore for both these reasons, all the Writ Petitions are allowed and the impugned orders passed under Section 6 of the A.P. Land Encroachment Act, 1905 are set aside, leaving it open to the State to file appropriate proceedings in competent Civil Court for recovery of the land from the petitioners. Consequently, all the vacate stay petitions are dismissed. No costs.

¹ AIR 1982 S.C. 1081

9. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 15-11-2017
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