

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.16410 of 2007

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking to declare letter No.SA 3 Deposit/ 2007-08, dated 10.07.2007, addressed by the 3rd respondent to the 2nd respondent and forwarded the same by the 2nd respondent to the petitioner through his letter No.TO/ PWSS to Kalugotla/ EMD/ 2007, dated 11.07.2007, as illegal and arbitrary.

The petitioner is a contractor with the respondents and is allotted some works in the respondents 3 and 4 Division. The petitioner owned an extent of Acs.4.68 cents of agricultural land, which is abutting to three rooms of the respondents and during the period of floods, the revenue officials instructed the petitioner to store the paddy and other contract material of the petitioner in the said three rooms. But, the respondents are claiming rent for the storage of the paddy and other material of the petitioner in their rooms. The case of the petitioner is that he completed the works allotted to him in the 4th respondent's division within the stipulated time, and therefore, he claimed for refund of his EMD amount. The petitioner made a representation to the 2nd respondent, who is the concerned authority, for release of the EMD amount. But, surprisingly, the petitioner received letter, dated 11.07.2007 from the 2nd respondent, that the EMD amount, which is payable to the petitioner, shall be deducted from the rental charges payable by him to the 4th respondent. Hence, this writ petition.

The 3rd respondent filed counter denying the allegations made by the petitioner and stating that the petitioner illegally occupied their store rooms and therefore, he was asked to pay the rent for the store rooms and on the instructions of the higher officials, the EMD amount was adjusted towards the rental dues payable by the petitioner.

Heard and perused the material available on record.

The main grievance of the petitioner is that the impugned proceedings are passed by the respondents without giving any notice and without affording any opportunity to the petitioner.

Considering the circumstances of the case and the grievance of the petitioner, this Court is of the view that an opportunity can be afforded to the petitioner before passing the impugned proceedings by the respondents.

Hence, the writ petition is disposed of and the impugned proceedings passed by the respondents 2 and 3 are set aside. The respondents are directed to issue notice to the petitioner, afford opportunity and decide the issue afresh in accordance with law.”

No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

August 10, 2017

KTL

RAJA ELANGO, J