

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.35104 OF 2013

ORDER:

The petitioner challenges notice issued under Section 7 of the Land Encroachment Act. One of the principal objections against the notice is that the petitioner is in settled possession and enjoyment of the property and notice issued is contrary to the principle laid down by the Hon'ble Supreme Court in Government of Andhra Pradesh v. T.Krishna Rao¹.

This Court on 04.12.2013, granted interim stay. The 3rd respondent filed counter affidavit and has explained the circumstances under which the notice is issued. According to respondents, the area claimed by petitioner is classified as Government land. The 3rd respondent submits that as the petitioner has already filed explanation, the explanation will be considered, enquiry into the matter will be conducted and opportunity of hearing will be given to petitioner by 3rd respondent before passing orders in this behalf.

I have perused the material on which the petitioner is relying upon and the stand of respondents for issuing impugned notice under Section 7 of the Land Encroachment Act. Learned counsel for petitioner requests the Court to permit the petitioner to file additional explanation and the 3rd respondent may be directed to

¹ AIR 1982 SC 1081

consider, enquire into the matter, give opportunity of hearing to petitioner before passing orders in this behalf and that the petitioner may be given liberty to work out all the remedies available against the decision taken by 3rd respondent. The statement is placed on record and the writ petition is accordingly disposed of without going into the merits of the matter.

The petitioner by enclosing a copy of this order can file additional explanation with documentary proof on which the petitioner would like to rely upon within four weeks from today. The 3rd respondent is directed to (a) receive additional explanation, (b) conduct enquiry, (c) afford opportunity, (d) pass orders and communicate to petitioner. Till decision is taken and communicated to petitioner, it is needless to observe that the 3rd respondent shall not disturb the possession of the petitioner.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 19.07.2017

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