

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION Nos.2460 & 1735 of 2005

COMMON ORDER:

Heard.

These Writ Petitions are filed seeking issuance of writ of mandamus declaring the order dated 29.01.2005 passed by the MRO against the petitioners and the orders passed by this Court in W.P.No.24126 of 2004, dated 23.12.2004, as illegal and arbitrary.

The averments in the affidavit would disclose that the petitioners along with others are residents of the property situated in Survey Nos.213/2 and 214/2 of Kanukunta Village. It is stated that the petitioners have been in possession and enjoyment of the said property since 1965, obtained electricity service connections and have been paying property tax to the Executive Officer of the Gram Panchayat of Kanukunta and hence claim adverse possession. While things stood thus, the MRO, without any prior notice, issued notices for eviction under Section 7 of the A.P.Land Encroachment Act which was challenged before this Court vide W.P.No.24126 of 2004. The said writ petition was disposed of with the following direction:

“In view of the facts and circumstances of the case, treating the notice of the respondents dated 06.12.2004, as a show cause notice, the petitioners are directed to submit their explanation to the said show cause notice within four weeks from today and on filing such explanation, respondents are at liberty to consider the said explanation and pass appropriate orders thereon, expeditiously. Till then, *status quo* as on today shall be maintained by the petitioners.”

Accordingly, the petitioners submitted their written explanation to the MRO. Thereafter, the MRO changed his version and issued

another notice to the petitioners under Form-V of Rule 15 (2) of the A.P.Land Grabbing (Prohibition) Act, wherein it is stated that the Special Tribunal under the Act, by its order in LGP No.1 of 94 and LGA No.11 of 2001 has decided that the ownership of the land in dispute as belonging to one Bonala Krishna Rao and as per the orders of the RDO, Sanga Reddy, dated 06.12.2004, the MRO would take possession of the land grabbed on behalf of the Government from the petitioners within a week from the date of receipt of the said authorization. It is stated that the respondents changed their version by initially claiming that the land belongs to the Government, thereafter the impugned notices were issued stating that the land belongs to one Bonala Krishna Rao. Aggrieved thereby, the present writ petition came to be filed.

Learned Government Pleader for Assignment would submit that in view of the findings given by the Land Grabbing Court, which were confirmed by this Court, notice issued under Section 15(2) of the Land Grabbing (Prohibition) Act came to be issued by RDO and as such there is no illegality or violation of law.

A perusal of the material on record would show that by mistake notice under Section 7 of the Land Encroachment Act was issued, which was subsequently rectified by issuing notice under Land Grabbing (Prohibition) Act. Further, the petitioners herein are said to have submitted their explanation to the subsequent notice issued under Section 15 (2) of the Land Grabbing Act. In view of the same, both the counsels would submit that nothing survives for adjudication in these writ petitions.

Accordingly, the writ petitions are disposed of giving liberty to the petitioners to avail the remedy available under law, if any orders

are passed pursuant to the explanation given by them. There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

JUSTICE C.PRAVEEN KUMAR

20.02.2017
vhh

