

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.40774 of 2016

ORDER:

Heard the learned counsel for petitioners, learned Government Pleader for Revenue appearing for respondent Nos.1 to 4 and Sri O. Manohar Reddy, learned counsel for respondent Nos.5 and 6.

2. Petitioners have filed this Writ Petition challenging the proceedings dt.16-11-2016 issued by the 4th respondent under Section 6 of the A.P. Land Encroachment Act, 1905 (for short “the Act”) straight away directing the petitioners to vacate the subject property.

3. Learned counsel for petitioners contends that no prior notice under Section 7 of the Act inviting explanation from the petitioners has been issued by the 4th respondent before passing the impugned order.

4. Learned Government Pleader for Revenue appearing for respondent Nos.1 to 4 states that under the instructions of Lok Ayukta, the impugned order was passed.

5. It is settled law that Lok Ayukta cannot issue any direction to any State Governmental authority and that any communication from him is only advisory in nature. On the basis of such instructions, the 4th respondent cannot ignore the provisions of Section 7 of the Act and straight away pass the order under Section 6 of the Act.

6. Since the impugned order is passed in gross violation of principles of natural justice, the Writ Petition is allowed and the order dt.16-11-2016 of the 4th respondent is set aside. No costs.

7. It is open to the 4th respondent to issue fresh notice in accordance with Section 7 of the Act giving all particulars to the petitioners and take appropriate action in accordance with the Act after considering the explanation of petitioners.

8. Till then, possession and enjoyment of the petitioners of the subject property cannot be interfered with.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 14-11-2017

Note : Issue C.C. in two (02) days.

B/o.
Vsv