

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.2226 OF 2014

ORDER:

The petitioner challenges a notice issued under Section 6 of the A.P. Land Encroachment Act, 1905 (for short 'the Act').

The principal objection against the impugned notice is that respondent No.4 did not issue the statutory notice under Section 7 of the Act or afforded opportunity to petitioner before directing removal of encroachment of the property covered by the notice. The 4<sup>th</sup> respondent filed counter affidavit. On the allegation of not issuing notice under Section 7 of the Act, the reply reads thus:

“Recently, the petitioner with evil desire constructed a compound wall around the said land in Sy.No.168/1C for an extent of Ac.0-18 cts unauthorisedly. The villagers re-agitated for his illegal construction in the said vacant land in Sy.No.168/1. The petitions from the public have been receiving against his illegal construction of a compound wall in the said Government land. Therefore the notice u/s 7 of the Andhra Pradesh Encroachment Act, 1905 was issued to the petitioner vide Rc.No.487/2013/A, dt.22.11.2013 and called for explanation within 15 days of the receipt of the notice. The petitioner had refused to take notice when served by the Village Revenue Officer, Rolugunta on 23.11.2013. Therefore the notice was affixed on the said compound wall in the presence of the villager, namely Sri Rongala Kannababu.....”

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In reply to para 6 of the affidavit, it is submitted that no correspondence is going on, on his application. The petitioner knowingly with evil desire to grant the land in Sy.No.168/1C, he constructed a compound wall unauthorizedly and illegally around the Government land covered by Sy.No.168/1C to an extent of Ac.0-18 cts and planned to construct a building. The villagers of Rolugunta were agitated for the illegal construction by the petitioner. I along with the Mandal Surveyor and Village Revenue Officer, Rolugunta have inspected the site and found

that the petitioner has constructed a compound wall around the Government land to an extent of Ac.0-18 cts situated in Sy.No.168/1C. Therefore the petitioner was warned twice to remove the illegal structure. He did not respond to the instruction of the Tahsildar, Rolugunta. Hence, a notice u/s 7 of the Andhra Pradesh Land Encroachment Act, 1905 was issued to the petitioner vide Rc.No.487/2013/A, dt.22.11.2013. The petitioner refused to take the said notice. Hence the notice was affixed on said compound wall in the presence of villager, namely Rongala Kannababu. Sufficient time was given to the petitioner and on 23.12.2013 was issued to the petitioner. The petitioner did not take the notice along with orders on 23.12.2013. The petitioner took the said notice along with the orders on 26.12.2013 and it was acknowledged by him on the said notice. Therefore there is no need to issue show cause notice to the petitioner. The petitioner did not respond to the notice u/s 6 orders or did not remove the compound wall even though sufficient time was given to the petitioner".

After perusing the order passed on 22.11.2013, this Court is *prima facie* satisfied that the 4<sup>th</sup> respondent has not followed the procedure prescribed under the Act before ordering removal of encroachment. The notice impugned in the writ petition, on this short ground, is set aside. The matter is remitted back to the 4<sup>th</sup> respondent. The 4<sup>th</sup> respondent is given liberty to issue notice under Section 7 of the Act, afford opportunity and pass orders in accordance with law.

The writ petition is ordered and the matter is remitted back to the 4<sup>th</sup> respondent as indicated above. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, stand closed.

S.V.BHATT,J

15<sup>th</sup> June, 2017  
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