

HON'BLE SRI JUSTICE S.V.BHATT

W.P.Nos.37 OF 2015 & 37260 OF 2014

COMMON ORDER:

The petitioners challenge notice Roc.No.A/173/2014 dated 15.12.2014 issued by 3rd respondent under Section 6 of the Land Encroachment Act, 1905 (for short 'the Act'), as illegal, arbitrary, violative of principles of natural justice and without jurisdiction.

The circumstances relevant for disposal of the writ petition are as follows:

The petitioners claim to be assignees of Government land in Sy.No.254 of Reddivaripalli, H/o Chichilivaripalle of Pulicherla Mandal, Chittoor District. According to petitioners, they are in possession and enjoyment of assigned land and issuing notice under Section 6 of the Act without recourse to the procedural safeguard provided by Section 7 of the Act is illegal and arbitrary. The petitioners filed representations dated 13.10.2014, 08.11.2014 and 25.11.2014 explaining the circumstances under which the petitioners are in possession and how they are entitled for either grant of Government land or continuation of assigned land. This Court, on 07.01.2015 in W.P.No.37 of 2015, granted interim direction. The interim order is subsisting as on date.

The 2nd respondent/District Collector, Chittoor filed counter affidavit opposing the writ petition and according to 2nd respondent, Sy.No.254 is classified as grazing ground poramboke. Grazing ground poramboke is encroached by a few individuals and further it is stated that the encroachers voluntarily

agreed to vacate possession of land in Sy.No.254. According to 2nd respondent, notices under Section 7 of the Act were issued on encroachers and the encroachers filed the instant writ petitions. The 2nd respondent submits that Tahsildar/3rd respondent is incompetent to assign grazing poramboke without change of classification.

Counsel appearing for the parties have substantially reiterated the stand taken by the parties for whom they are appearing in the writ petition.

The Assistant Government Pleader (Revenue) submits that though service of notices under Section 7 of the Act is stated in the counter affidavit, but for the present he is unable to satisfy the Court on the procedure followed by 3rd respondent before issuing notice under Section 6 of the Act.

After perusing the material on record and to afford fair and reasonable opportunity to petitioners in this behalf, I am satisfied the writ petition can be disposed of by this order.

Section 6 notice is set aside. Matter is remitted to Tahsildar/ 3rd respondent for consideration and disposal afresh along with representations dated 13.10.2014, 08.11.2014 and 25.11.2014. The said exercise shall be completed within two months from the date of receipt of a copy of this order.

Grazing Poramboke is one of the important communal lands in the life of villagers and the village. The Tahsildar does not have

administrative jurisdiction to take up assignments of grazing poramboke land. In the counter affidavit filed in W.P.No.37260 of 2014, the Tahsildar clearly admitted that classification of subject land is continuing as grazing poramboke. For any reason, the Tahsildar finds that the petitioners are eligible for consideration of assignment, their cases may be considered for assignment of revenue land.

The writ petitions are, accordingly, disposed of. There shall be no order as to costs.

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

27th July, 2017
Lrkm



S.V.BHATT, J