

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.36241 of 2017

ORDER :

Heard the counsel for petitioner, and the learned Government Pleader for Revenue (Telangana), for respondents.

2. The petitioner has assailed notice dt.28.10.2017 issued by the 4th respondent purporting to be one under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905 (**for short, 'the Act'**) on the ground that it is not in the nature of a show-cause notice, and that straightaway an order has been passed directing the petitioner to vacate the subject premises in two days contrary to the provisions of the Act.

3. The counsel for petitioner contends that petitioner is entitled to file an explanation to the show-cause notice and then a reasoned order has to be passed under the provisions of the Act, and communicated to the petitioner and till then, the petitioner cannot be evicted from the subject premises.

4. Though the learned Government Pleader for Revenue, appearing for respondents, seeks to support the said impugned notice, I am of the opinion that it cannot be sustained, since under Section 7 of the Act, the 4th respondent can only issue a show-cause notice and he cannot straight away direct eviction of the person in occupation without following principles of natural justice, i.e., affording an

opportunity to the person in possession to give explanation to the show-cause notice.

5. Accordingly, the latter portion of the impugned notice dt.28.10.2017 is set aside; the 4th respondent is directed to treat the impugned notice dt.28.10.2017 only as a show-cause notice; the petitioner is granted three (03) weeks' time to file explanation thereto; and on receipt of such explanation, the 4th respondent shall pass a reasoned order, and communicate the same to petitioner. Till then, the petitioner shall not be evicted from the subject premises.

6. If the petitioner does not submit explanation to the impugned notice within the time aforesaid, it is open to 4th respondent to proceed with the matter *ex parte*.

7. The learned Government Pleader for Revenue, appearing for respondents, shall communicate this order to the 4th respondent.

8. Accordingly, the Writ Petition is disposed of with the above directions. No order as to costs.

9. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 30-10-2017

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

B/o.

Ndr/*