

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.8973 OF 2018

DATED :21.03.2018

Between :

M.Prakash Mudhiraj, S/o.Late M.Laxmaiah,
Aged about 57 yrs, R/o.H.No.18-2-474/5/A, B,
Jangammet, Falaknuma, Hyderabad & another.

.. Petitioners

And

State of Telangana,
Rep., by its Secretary, Revenue Department,
Secretariat, Hyderabad & others.

.. Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.8973 OF 2018

ORDER :

Heard learned counsel for the petitioners and learned Assistant Government pleader. With their consent the writ petition is disposed of at the admission stage.

2. This writ petition is filed challenging the notice issued under Section 6 of the Andhra Pradesh Land Encroachment Act, 1905 (for short 'the Act'). It is contended that this notice was not preceded by notice under Section 7 of the Act, and no opportunity was given to submit explanation to the said notice. Therefore, on that ground the impugned notice is illegal.

3. In paragraph No.6 of the affidavit filed in support of the writ petition, petitioners state that the Tahsildar visited the subject premises, where the retail wine shop is located asking for the documents. Accordingly, the photocopies of the documents were furnished, but no notice was served on them. It is contended by learned counsel for the petitioners that the petitioners are running a retail outlet and they were available in the premises when the notice alleged to have been taken out. But no such notice was served and pasting on the wall as sought to be contended by learned Assistant Government pleader is not correct.

4. On the contrary, learned Assistant Government pleader submits that as petitioners are refusing to receive the notice, the same was pasted on the wall of the shop and as the bunch of

documents were furnished, the same was considered before passing the order.

5. Learned Assistant Government pleader produced the original copy of the notice issued under Section 7 of the Act, wherein it is written as "Affixed on the wall in the presence of the following witnesses." Two signatures were taken claiming to be the witnesses, but their particulars are not available. It is not known, when petitioners were available why they refused to receive the notice, but they could supply the relevant documents.

6. However, having regard to the order proposed by the Court, this Court is not entering into the issue of service of notice even by alternative mode and to give one opportunity. The writ petition is disposed of directing the petitioners to file explanation to the notice issued under Section 7 of the Act, within one week from today and on filing such explanation along with supporting documents, the Tahsildar, Bandlaguda Mandal, Hyderabad shall consider the same and appropriate decision be made by assigning due reasons in support of the decision, within one week thereafter. Till a decision is made, the impugned order is kept in abeyance and shall cease to be in operative as soon as the fresh order is passed. The fresh order shall be passed uninfluenced by the earlier observations and on independent consideration of the objections filed by the petitioners. If no explanation is filed as directed above, the order dated 09.03.2018 shall come into force and it is open for the respondents to take further action as warranted by law. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

21st March, 2018

Note : Issue c.c. today

B/o.

Rds

P.NAVEEN RAO,J

