

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.28437 of 2008

ORDER:

In this Writ Petition, under Article 226 of the Constitution of India, the petitioners assailed the notice, dated 10.12.2008, issued by the Assistant Engineer, Irrigation Department, Malleswaram Village, Bantumilli Mandal, Krishna District/respondent herein.

2. I have heard the submissions of Sri *Kowturu Vinayakumar*, learned counsel appearing for the petitioners; and of the learned Government Pleader for Irrigation and Command Area Development (A.P.), appearing for the respondent. I have perused the material record.

3. Learned counsel for the petitioners submits that the impugned notice was issued directly asking the petitioners, who are in possession of their respective properties since more than four decades, to vacate their respective properties within 15 days of receipt of the said notice and deliver vacant possession of their properties and that the said notice being contrary to the principles of natural justice and as the said notice is not preceded by a show cause notice, the present writ petition is filed.

4. Learned Government Pleader submitted that the property occupied is the property of Irrigation Department and that the property is required for modernisation of Tank Bunds and for other purposes and, therefore, the impugned notice is issued.

5. Having given earnest consideration to the facts and submissions, this Court is of the considered view that the notice

impugned directly asking the petitioners to vacate the properties, which according to them are in their respective occupations since several decades, is unsustainable being opposed to the principles of natural justice. In that view of the matter, this Court is of the view that this writ petition can be disposed of with appropriate directions.

6. Accordingly, the Writ Petition is allowed directing both the parties to treat the impugned notice as a show cause notice. Accordingly, the petitioners are given two (02) weeks time from the date of receipt of a copy of this order to submit their detailed explanation/s along with their documents, if any, to the impugned notice, which is now directed to be treated as a show cause notice. It is needless to state that on receipt of the explanation/s of the petitioners, as stated above, the respondent shall consider and dispose of the same, in strict accordance with the procedure established by law, however, after affording an opportunity of personal hearing to the petitioners. Considering the nature of the matter, it is needless to state that the respondent shall pass a reasoned order, after completing the necessary exercise, and communicate the decision taken to the petitioners within a week thereafter.

There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE M. SEETHARAMA MURTI

Date: 25th September, 2018

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