

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.14537 of 2017

ORDER:

The proceedings dated 31.03.2017, issued under Section 6 of the Land Encroachment Act, 1905 (in short "the Act"), issued by the 4th respondent is challenged before this Court.

2) It is the case of the petitioner that pursuant to the notice, dated 27.01.2017, issued under Section 7 the Act by the 4th respondent, petitioners submitted detailed objections, enclosing the sale deed mentioning as to how and in what manner, they came to be in possession of the property in Sy.No.1471/1 of Kota Village. In spite of the said objections, without passing any orders on merits, Notice under Section 6 of the Act, was issued straight away. In those circumstances, the petitioner submits that though the alternative remedy of appeal is provided, the same would be meaningless, as there are no reasons mentioned in the impugned order dealing with the objections of the petitioner, which alone can be the basis for challenging in the appeal.

3) This matter came up for admission on 21.04.2017. On that day, learned Assistant Government Pleader for Revenue (AP) sought time for getting instructions as to whether any speaking orders passed under Section 6 of the Act. Today, learned Assistant Government Pleader for Revenue (AP), on instructions, submits that without passing any speaking orders, straight away Notice under Section 6 of the Act was issued.

4) It is now settled by the judgment of this Court in **P. Ravinder Reddy v State of Telangana and Others**¹ that when an order is to be made under Section 6 of the Act, the proceedings shall reflect the reasoning and the said proceedings have to deal with the objections raised and the same must be a speaking order.

5) In those circumstances, the impugned notice is set aside giving liberty to the respondents to pass orders on merits, after giving opportunity of hearing to the petitioners and after considering the written objections made by them.

6) Accordingly, the Writ Petition is allowed. No costs. Consequently, Miscellaneous Petitions, pending if any, shall stand closed.

Date: 03.01.2018.

CHALLA KODANDA RAM, J.

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¹ 2015 (4) ALD 641