

THE HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.12425 of 2018

ORDER:

Heard Mr.Mohan Rami Reddy for petitioners and the learned Assistant Government Pleader for Revenue.

The issue arises under the A.P.Land Encroachment Act, 1908 (for short 'the Act'). The 4th respondent purporting to exercise his power and jurisdiction under Section 7 of the Act has issued the notice impugned in the writ petition. The notice does not conform to the requirements of Section 7 of the Act. It assumes that the structure in an extent of 10 cents is an encroachment, warrants removal of encroachment by the petitioners.

Mr.Mohan Rami Reddy contends that the petitioners are not encroachers or trespassers into subject survey number for they claim possession and enjoyment of Sy.No.117-5 through an assignment granted in favour of their father. According to him, all the aspects have to be examined, before the petitioners could be called encroachers.

The Assistant Government Pleader by referring to the provision of law quoted in the notice, firstly tried to convince that no circumstance warranting to interfere against a show cause notice is made out and alternatively that the notice impugned in the writ petition may be treated as show cause notice within the meaning of Section 7 of the Act, reasonable

time could be given to the petitioners for filing explanation together with supporting documents. This Court is not convinced with the first objection raised by the Assistant Government Pleader and accordingly rejected. By accepting alternative submission, the writ petition is disposed of by this order:

“The notice impugned in the writ petition shall be treated as notice issued under Section 7 of the Act calling upon the petitioners to submit explanation. Hence, the petitioners are given four (04) weeks time from today to submit explanation. Petitioners are also given liberty to enclose copy of this order.

The 4th respondent conducts enquiry as prescribed by the Act and passes orders; communicates to petitioners. It is made clear that the notice impugned is treated by this Court as show cause notice. Therefore, the enjoyment of petitioners shall not be disturbed till an order is passed and communicated.

The Assistant Government Pleader is directed to communicate the order of the Court to respondent No.4 immediately. No order as to costs.”

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 13.04.2018
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