

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.12793 OF 2018

Date: 16.04.2018

Between:

Bantu Simhachalam, s/o. Krishna Rao, Aged 48 years,
Occu: Workshop, H.No.8-79, Dwaraka Nagar,
M.nagulapalli village, Dwaraka Tirumala Mandal,
West Godavari District and others.

.....Petitioners

and

The State of Andhra Pradesh, rep.by its
Principal Secretary, Revenue Department, Secretariat
Buildings, Velagapudi, Amaravathi, Guntur District
and others.

.....Respondents



The Court made the following:

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ORDER:

Alleging that petitioners are in encroachment of Government land, notice under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905 (Act, 1905) was issued on 23.03.2018, served on petitioners on 30.03.2018. Petitioners filed their explanations dated 06.04.2018, acknowledged by the Office of Tahsildar on 09.04.2018. While so, order was passed on 06.04.2018 under Section 6 of the Act, 1905, directing petitioners to evict from the subject properties. Challenging the same, this writ petition is filed.

2. According to learned counsel for petitioners, notice under Section 7 of the Act did not stipulate time within which explanation should be submitted. As petitioners received notice on 30.03.2018, within the reasonable time explanations were filed and, therefore, without considering the explanations, no further steps could have been taken by the competent authority.

3. As seen from the notice dated 23.03.2018, he did not specify time within which explanation should be filed and in the absence of time fixed, it cannot be said that petitioners erred in not submitting explanation and inviting adverse order under Section 6 of the Act, 1905. Notice under Section 6 is set aside, matter is remitted to Tahsildar to examine the explanations dated 06.04.2018 offered by petitioners on merits and pass a reasoned order on due consideration of explanations and take further course of action as warranted by law.

4. At this stage, learned counsel for petitioners requests personal hearing be afforded to the petitioners. Petitioners shall appear before the Tahsildar on 26.04.2018 at 11.00 A.M. If petitioners appeared before the Tahsildar on the said date, Tahsildar shall grant personal hearing and take note of submissions made by petitioners in addition to explanations already filed, before passing orders.

Writ Petition is accordingly allowed. Pending miscellaneous petitions shall stand closed. No costs.

Date: 16.04.2018

Note: Issue CC in one week.

(B/o.)

kkm

JUSTICE P.NAVEEN RAO



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