

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.14538 OF 2018

Date: 23.04.2018

Between:

J.Ramdhari Agarwal, s/o. Jugthi Ram Agarwal,
Aged about 66 years, r/o. Plot No.74, Sree Nagar Colony,
Tirumulgherry, Secunderabad and another.

.....Petitioners

and

State of Telangana, rep.by its Prl.Secretary,
Revenue Department, Secretariat Buildings,
Saifabad, Hyderabad and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.14538 OF 2018

ORDER:

Petitioners are aggrieved by Notice under Section 6 of A.P.Land Encroachment Act, 1905 (Act, 1905), dated 18.04.2018. This notice was preceded by Notice under Section 7 of the Act, dated 07.04.2018. In Section 7 notice, it was alleged that land in Sy.Nos.476 and 501 to an extent of Ac.4.06 guntas and Ac.034 guntas, respectively, classified as 'Kharizkhata' in the revenue records and said land is encroached by petitioners. Petitioners submitted detailed explanation on 16.04.2018. It appears, on due consideration of explanation, separate order was passed on 18.04.2018 and simultaneously notice under Section 6 was issued on the same day. Order passed on consideration of explanation is not placed on record. Against the order of Tahsildar under Section 6 of the Act, appeal shall lie to the Revenue Divisional Officer under Section 10 of the Act, 1905. It cannot be said that remedy of appeal under Section 10 available to an aggrieved person is not an efficacious and effective remedy. Thus, this Court is not inclined to entertain the writ petition at this stage. It is not a case where Tahsildar is not competent to initiate proceedings under Section 7 of the Act, 1905.

2. At this stage, learned counsel for petitioners sought to contend that it is a private property; that land was purchased long ago and when sale transaction took place on payment of valid sale consideration, summary procedure as envisaged in Land Encroachment Act would not be attracted. These issues can also be agitated before appellate authority. It is for appellate authority

to consider said aspects depending on the assessment of facts on record and due consideration of material placed on record. Further, even to *prima facie* appreciate the said contention, Court does not have the advantage of the order passed by the Tahsildar as same is not placed on record.

3. At this stage, learned counsel for petitioners submits that in Section 6 Notice only two days time is granted and that reasonable time be granted to petitioners to avail appropriate remedy including availment of civil law remedy.

4. Having regard to this submission, in order to enable petitioners to avail appropriate legal remedy, I am of the considered opinion that order of Tahsildar dated 18.04.2018 in Section-6 Notice shall not be given effect for a period of 15 days from today. In the mean time, petitioners are entitled to avail remedy of appeal or any other civil law remedy available to them. Petitioners are also entitled to file an application, in appeal, for grant of stay and said application shall be considered and appropriate orders be passed within 15 days from today. Writ petition is disposed of accordingly.

Pending miscellaneous petitions shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

Date: 23.04.2018

Note: Issue CC by tomorrow.
(B/o.)
kkm

HON'BLE SRI JUSTICE P.NAVEEN RAO



WRIT PETITION NO.14538 OF 2018

Date: 23.04.2018

kkm