

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.15851 OF 2018

DATED : 30.04.2018

Between :

Smt V. Bharatamma W/o.V.Sri Ramulu,
R/o.H.No.2-1-4/5/1, Upparpalli (V),
Rajendranagar (M), Ranga Reddy District & others.

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Petitioners

And

The Principal Secretary,
Revenue Department,
Secretariat, Hyderabad,
Telangana State & others.

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Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioners and learned Assistant Government Pleader for revenue appearing for respondents.

2. According to petitioners plot to an extent of 62 square yards and 40 square yards respectively of Attapur village was acquired through Gift Settlement Deed dated 17.08.2016 and they are in possession and enjoyment of the same. Alleging that petitioners are in illegal encroachment of land in Sy.No.12, to an extent of 50 square yards which is actually classified as poromboke sarkari, notice under Section 7 of A.P.Land Encroachment Act (for short 'the Act'), was issued on 20.06.2017, calling upon the petitioners to submit their explanation. Petitioners claim that both of them have submitted detailed explanation.

3. It appears, it is the stand of the petitioners that the land in their possession and enjoyment is in Sy.No.377 and not in Sy.No.12. The Tahsildar is competent to initiate proceedings under the Act, if according to him a person is in illegal occupation of government land. If that is so, the notice impugned cannot be nullified. The Court do not entertain the writ petitions against show cause notice unless the same is issued without competence.

4. According to learned counsel for the petitioners as the land in possession of the petitioners is in different survey number, the notice is vitiated on that ground. This aspect is for consideration

of the competent authority and is a question of fact. Therefore, on that ground the notice cannot be declared as illegal.

5. Since the explanation is already submitted by the petitioners and it seems the same has been acknowledged by the competent authority, the Writ Petition is disposed of directing the competent authority to examine the explanation of the petitioners on its merits and to pass appropriate orders, as warranted by law. Until a decision is made, no coercive action shall be taken against the petitioners. However, at the same time, the petitioners shall not make any alterations or create third party interest. There shall be no order as to costs.

Miscellaneous petitions, pending if any, in this writ petition shall stand closed.

30th April, 2018
Rds

P. NAVEEN RAO, J

