

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.20295 of 2018

ORDER:

Heard Mr.J.U.M.V.Prasad for petitioner and the Assistant Government Pleader for Revenue.

The grievance of petitioner is very short and simple namely that notwithstanding the observations of this Court in W.P.No.16090 of 2013, the 3rd respondent did not conduct survey in the presence of petitioner but presuming that the land in possession of petitioner is Government land warrants eviction under the Land Encroachment Act.

The Assistant Government Pleader refers to notice dated 01.05.2018 to convince this Court that the 3rd respondent issued notice to petitioner.

What is not clear from the notice under Section 7 of Land Encroachment Act is that the encroachment notice is issued by referring to the outcome of survey said to have been conducted by respondents, wherein survey report is available. It is stated that the report is not furnished to petitioner.

The 3rd respondent ought to have acted fairly and objectively in the matter. Admittedly, there was no hassle for conducting survey and that being the case, it is in the fitness of things that the survey is conducted in the presence of petitioner and the survey report is made available to petitioner at the applicable charges

and thereafter, the proceedings under the Land Encroachment Act could have been initiated.

As the above requirements are wanting in the notice impugned, I am satisfied the writ petition can be disposed by this order.

(a) The 3rd respondent pursuant to or in terms of notice dated 01.05.2018 conducts survey by informing date, time etc., by registered post with acknowledgment due to petitioner within six weeks from the date of receipt of a copy of this order.

(b) The copy of survey report is made available to petitioner and thereafter to the extent of encroachment, the 3rd respondent can proceed with enquiry initiated vide notice dated 05.06.2018.

(c) Till the copy of survey report is given to petitioner, it is needless to observe that the enjoyment of petitioner of petition land shall not be disturbed.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

S. V. BHATT, J

Dt: 26-06-2018
Prv

