

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.24010 of 2018

ORDER:

Heard Mr.V.V.Satish for petitioner and the learned Assistant Government Pleader for Revenue.

Counsel appearing for the parties consent to disposing of the writ petition at the admission stage.

The issue arises under the A.P.Land Encroachment Act, 1905 (for short 'the Act').

The 2nd respondent issued Notice in Roc.No.201/2018(DT) dated 26.06.2018 under Section 7 of the Act. The scheduled enquiry was held on 04.07.2018. The petitioner prayed for 7 days time to file explanation. The 2nd respondent refused the request for adjournment. Secondly, without conducting enquiry, much less a survey to identify the property claimed by the petitioner, the boundaries of Government land etc., issued endorsement dt.04.07.2018. The endorsement resulted in notice under Section 6 of the Act dated 06.07.2018. Hence, the writ petition.

Prima facie, it appears that the 2nd respondent was disposed to presume encroachment and proceed to issue orders under Section 6 of the Act. The 2nd respondent ought to have given reasonable time to petitioner to file explanation, if necessary, ought to have conducted survey, identify the

land claimed by the petitioner and demarcate the Government land and order notice under Section 6 of the Act is passed. Justice should not only be done but seen to have been done. The procedure adopted by 2nd respondent does not satisfy the requirements of fair play and ignores the nature of enquiry the 2nd respondent is required to undertake under Sections 7 and 6 of the Act.

For the above reasons, the endorsement Roc.No.137/2018 dated 04.07.2018 and notice under Section 6 of the Act dated 06.07.2018 are set aside. The petitioner is given three (03) weeks time from today to file explanation to the notice dated 26.06.2018. The 2nd respondent, conducts field survey, if necessary, undertakes demarcation of private and Government land and thereafter by furnishing a copy of report to petitioner and passes orders as are necessary.

Writ petition is ordered as indicated above. No order as to costs.

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

S. V. BHATT, J

Date: 12.07.2018
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