

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.28202 OF 2018

ORDER:

The petitioner challenges notice under Section 6 of the Land Encroachment Act, 1905. The petitioner raises a few legal grounds for invoking the jurisdiction of this Court under Article 226 of the Constitution of India. It is alternatively contended by Mr.Koti Reddy that the crux of the issue can be understood and decided by the Tahsildar, if survey is conducted, explanation of petitioner is considered and appropriate orders are passed. The efforts taken for getting the survey of land in possession of petitioner and the neighbouring land, it is stated, are not successful in view of the fact that the subject land is not described in I-B register. The oral request made by the petitioner is also negatived. Under those circumstances, the present writ petition is filed.

The Assistant Government Pleader opposes the maintainability of writ petition and further contends that the objections now raised against the respondents are equally untenable in as much this Court can infer the truth of the allegations if explanation is filed before the Tahsildar and there is inaction on the part of the Tahsildar in considering the request of the petitioner. He further contends that in the proposed reply/explanation the petitioner can raise not only objections but also make a request for survey and the authorities will consider in accordance with law.

This Court *prima facie* at this stage is not persuaded to entertain the writ petition. However, the grievance of petitioner for

survey is reasonable request in the fact situation of the case.

Hence, the writ petition is disposed of by this order:

The petitioner is given liberty to submit explanation within two weeks from today. In the proposed explanation the petitioner can also ask for survey of land and the Tahsildar before undertakes enquiry, orders survey of the land allegedly under encroachment and the land claimed by the petitioner, furnishes copies to petitioner and thereafter disposes of the encroachment notice dated 27.07.2018. The 3rd respondent passes orders by following the procedure stipulated above as expeditiously as possible, preferably within two months from the date of receipt of a copy of this order.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.



S.V.BHATT, J

Date: 09.08.2018

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