

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.17080 OF 2005

ORDER:

This writ petition is filed, seeking to declare the action of the respondents in issuing the notice dated 23.07.2005 to the members of the petitioner's society as illegal and arbitrary.

2. It is the case of the petitioner that it is a society comprising 55 families and that they built round huts in small extents of land in Anjaneya Swamy Temple Street on the canal bank of river Muggurallavanka in Madanapalle Town. While so, the 2nd respondent issued the impugned notice dated 23.07.2005 to the members of the society under Section 7 of the Madras Land Encroachment Act, 1905, directing them to vacate the said land. Aggrieved thereby, the present writ petition is filed.

3. The respondents 1 and 2 filed a counter affidavit, denying the allegations in the affidavit and contended that notices were issued under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905.

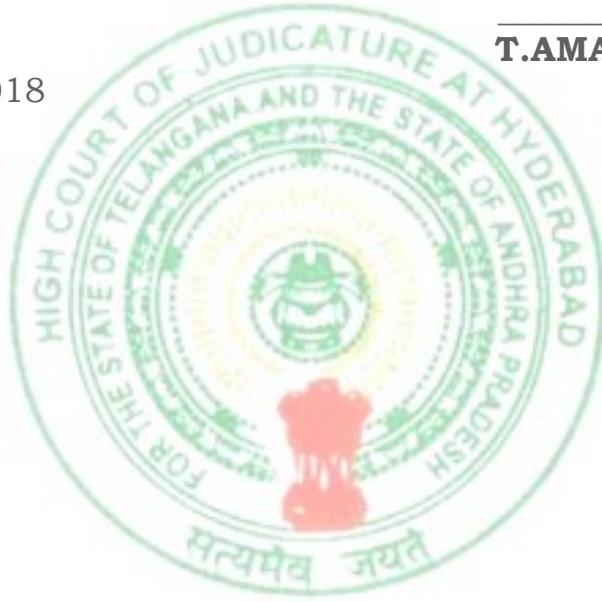
4. Heard.

5. A perusal of impugned notice reveals that the said notice was issued under Section 7 of the Act 3 of the Madras Act, 1905 i.e., The Tamil Nadu Land Encroachment Act, 1905, which is not applicable to the State of Andhra Pradesh, and the State of Andhra Pradesh is having separate Land Encroachment Act i.e., The Andhra Pradesh Land Encroachment Act, 1905, which came into force from 23.12.1904. The second respondent issued the

impugned notice without application of mind and without following due process of law and therefore, the said notice is liable to be set aside. In the similar circumstances, this Court allowed W.P.No.26750 of 2007 by order dated 3.08.2018 and set aside the impugned notice therein.

6. Accordingly, the writ petition is allowed, setting aside the notice dated 23.07.2005 issued by the second respondent. No order as to costs. As a sequel, the miscellaneous petitions pending if any shall stand closed.

Date: 05-10-2018
Shr



T.AMARNATH GOUD,J