

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V. BHATT**

WRIT APPEAL No.1452 OF 2018

JUDGMENT: (Per Hon'ble Sri Justice S.V. Bhatt)

Third parties to W.P. No. 23029 of 2018 are the appellants. The learned Single Judge, through the order impugned in the appeal, directed the 4th respondent/the Divisional Panchayat Officer, Narsaraopeta, Guntur District, to take steps as are required for implementation of proceedings dated 22.7.2017. For appreciating the grievance of appellants, the operative portion of the proceedings dated 22.7.2017 is excerpted hereunder.

“Therefore, the Panchayat Secretary, Nuzendla Gram Panchayat is directed to take immediate necessary action for removal of encroachments with the co-ordination of the Tashildar and Police departments and report compliance. The Extension Officer (PR&RD), Nuzendla is also instructed to give necessary guidelines to the Panchayat Secretary in the matter and submit action taken report within seven days without fail.”

Now the case of appellants is that the proceedings direct removal of encroachments. Respondents Nos. 7 to 9 seek implementation of the proceedings dated 22.7.2017. In the process of implementing either the proceedings dated 22.7.2017 or the order under appeal, the appellants are not put on notice or afforded an opportunity as per the statutory scheme under which the possession is sought to be taken. It is further contended that the appellants, if are impleaded in the Writ Petition, legal objections on the maintainability of Writ Petition etc., could be taken by the appellants. Hence, the Writ Appeal.

The counter-affidavit filed by Respondent No.6 admits possession and enjoyment by a few villagers. The 6th respondent would have done well if the 6th respondent's counter-affidavit disclosed the names of the alleged occupiers/encroachers of subject matter. The deliberate choice of the 6th respondent in not giving details has certainly resulted in passing the order impugned in the Writ Appeal.

The possession of third parties since is admitted, in our considered view, the appellants ought to have been heard either by the 4th respondent herein or by the learned Single Judge before positive directions are issued.

On the above short ground, the order under appeal is set aside. The Writ Petition is restored to file. The appellants herein and also Sri Y. Punnarao, Sri M. Chench Rao, Sri Y. Yesuratnam, Sri D. Gopal Rao, Sri Ch. Pedda Subbarao, Sri Ch. Sessaiah, Smt. M. Padmalatha and Sri O.Sambasiva Rao are impleaded as Respondent Nos. 7 to 19. They are impleaded as Respondent Nos. 7 to 19.

The Writ Appeal is allowed and remanded.

As a sequel thereto, miscellaneous applications, if any, pending in the Writ Appeal shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V. BHATT, J

29th October, 2018.

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