

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.39250 of 2018

O R D E R:

It is the case of the petitioner that as the 5th respondent is making construction of house in R&B Road Margin, situated in Sy.No.418 of Kopparru Village, Narsapur Mandal, West Godavari District, the petitioner made complaint on 30.07.2018 to the 3rd respondent and in pursuance to the same survey was conducted and found that the 5th respondent encroached R & B road to an extent of 0.02 cents in Sy.No.418 of Kopparru Village, Narsapur Mandal, West Godavari District. There after the respondents issued notices under Section 6 and 7 of the Land Encroachment Act, 1905 (*for short 'the Act'*) to the wrong person with wrong survey number i.e. Sy.No.428 and the 5th respondent is proceeding with the construction. Aggrieved by the same, the petitioner filed the present writ petition.

Learned Assistant Government Pleader for Revenue on instructions submits that notice dated 14.11.2018 under Section 6 of the Act is issued.

Learned counsel for the 5th respondent submits that the 5th respondent has already made complaint dated 27.08.2018 against the encroachment made by the petitioner, but no action has been taken on the same.

The counsel for the petitioner as well as 5th respondent states that the official respondents can be directed to take action on the complaints made by the petitioner as well as 5th respondent.

In this case it is to be seen that only after issuing notice under Section 7 of the Act and after considering the explanation, the

authorities have to pass orders under Section 6 of the Act. But, in the present case the authorities without issuing notice under Section 7 of the Act, straight away issued notice under Section 6 of the Act on 14.11.2018. This goes to show that the respondents are not following due procedure before considering the issue.

In view of the facts and circumstances, the 3rd respondent is directed to take appropriate action on the complaint of the petitioner as well as 5th respondent after issuing necessary notices to the parties and after considering their explanation and after conducting necessary enquiry and survey of the subject property and pass orders in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. If any further constructions are attempted encroaching public road, it is always open for the respondents to stop the same.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the Writ Petition shall stand closed.

A.RAJASHEKER REDDY, J

03.12.2018

Note: Issue CC by today.

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