

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.40583 OF 2018

ORDER :

The case of the petitioners is that the 4th respondent issued show cause notices to the petitioners on 07.07.2018 in Rc.No.211/2018-A under Section 7 of the A.P.Land Encroachment Act, 1905 (for short 'the Act') directing the petitioners to show cause as to why the petitioners should not be evicted from the subject lands on or before 23.07.2018. In pursuance to the same, the petitioner submitted explanation/objections on 23.07.2018, but without considering the same, the impugned notices dated 24.07.2018 were issued under Section 6 of the Act. Aggrieved by the same present writ petition is filed.

Heard learned counsel for the petitioners who submits that without considering the objections of the petitioners and without recording any reasons, the impugned order dated 24.07.2018 is passed and the same is in violation of principles of natural justice. He also relied on the Judgment in ***Pre.Jothi Education Society v. Secretary, Major Irrigation [2002 (6) ALD 83.***

Heard learned Assistant Government Pleader for Revenue.

Though it is stated that the impugned order is only a notice, but in fact it is an order under Section 6 of the Act. It does not contain any reasons and also does not mention about filing of objections by the petitioners, which appears to be in violation of principles of natural justice.

The Division Bench of this Court in the aforesaid Judgment at para 26 held as follows;

“Since the respondents passed the order under Section 6 of the Encroachment Act on 28.04.2001, without considering the objections of the petitioner, in order to meet the ends of justice, the order passed by the respondents under Section 6 of the Encroachment Act on 28.04.2001 has to be set aside and we do so. Since we have held that the notice dated 18.04.2001 issued by the respondents under Section 7 of the Encroachment Act is a proper notice and the objections filed by the petitioner on 30.04.2001 have not been considered, we permit the respondents to pass appropriate order in the light of the objections filed on 30.04.2001 by the petitioner to the Sec.7 notice, according to law.”

In view of the aforesaid facts and circumstances, the impugned notice dated 24.07.2018 issued under Section 6 of the Act is set aside and the 4th respondent is directed to consider the objections filed by the petitioners and pass orders within a period of eight weeks from the date of receipt of a copy of this order. Till then, the respondents shall not

take any coercive steps of dispossession against the petitioners.

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.

12.11.2018
t k.

A.RAJASHEKER REDDY, J

