

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 40205 of 2017

Order:

The 8th respondent herein earlier filed W.P.No.41928 of 2016 claiming that the land involved in the Writ Petition was endowed to his family and the land was encroached by some persons by constructing temporary sheds and living there. In spite of several complaints made to the third respondent to take action against the illegal encroachments and illegal constructions, when no action was taken, he filed that Writ Petition. The said Writ Petition was disposed of on 13.12.2016 with the following observations.

“5. Having regard to the above, the Writ Petition is disposed of, directing the petitioner to cooperate with the respondents and to furnish all the information and documents as available with him to enable the Commissioner to conduct fair and proper enquiry and to furnish suitable reply to the petitioner. If necessary, the Commissioner is also directed to cause notice on those persons who are alleged to be in occupation of the subject property and who have made constructions, without obtaining permission and after affording due opportunity, appropriate orders be passed, as expeditiously as possible, preferably within a period of two (2) months from the date of receipt of copy of this order. There shall be no order as to costs.”

Thereafter, it appears that individual notices were issued to the encroachers directing them to show cause as to why action should not be taken for their eviction. The petitioners submitted their explanation, but without considering that explanation, when final notice was issued on 17.06.2017, the present Writ Petition was filed.

A perusal of the final notice clearly indicates that the explanation submitted by the petitioners was not at all referred in the final notice. On the other hand, it was stated that no explanation was submitted along with the documents in support of their case. The final notice directs the

removal of structures within seven (7) days. In those circumstances, the petitioners approached this Court and this Court, by order dated 04.12.2017, directed the parties to maintain *status quo* with regard to constructions and restrained the petitioners from making further constructions.

Since the final order was passed without considering the explanation submitted by the petitioners, this Writ Petition is allowed by setting aside the impugned final orders and remanding the matter to the second respondent to consider the explanation submitted by the petitioners to the show cause notices issued to them and passing final orders within a period of one month from the date of receipt of a copy of this order. There shall be no order as to costs.

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

Date: 16.04.2018
Nsr

A. RAMALINGESWARA RAO, J

