

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.4926 OF 2019

ORDER

The prayer of the petitioner in this case reads as under:

‘For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon’ble Court may be pleased to issue Writ, order or direction particularly one in the nature of Writ of Mandamus declaring the Notice No.B/26/2019 dated 26-2-2019 issued under section 6 of the A. P. Land Encroachment Act, without passing any speaking orders in-respect of property on plot No. 56, survey No. 96,97, 98 (claimed as survey No. 63 of Boduppall Village) situated Gokul Nagar Colony, Mallapur Village, Medipally Mandal, Medchal - Malkajgiri District, issued by the 3rd respondent, issued by the 3rd respondent, as illegal, arbitrary and violative of principles of natural justice and without jurisdiction and against rights guaranteed under Art 300-A of constitution of India, also against the law declared by Hon’ble supreme court of India and also Hon’ble High Court, and to pass such other order or orders as this Hon’ble court may deems fit and proper in the circumstances of the case.’

It is an admitted fact that the petitioner was issued a notice under Section 7 of the Telangana Land Encroachment Act, 1905 (*for brevity*, ‘the Act of 1905’), on 18.01.2019. He submitted his response thereto on 04.02.2019. The endorsement made in the said reply bears out that the Office of the Tahsildar, Medipally Mandal, Medchal-Malkajgiri District, received it on the very same day but the stamp indicates the date as 04.01.2019. Having received the reply of the petitioner, the Tahsildar, Medipally Mandal, Medchal-Malkajgiri District, seems to have resorted to issuance of the impugned notice dated 26.02.2019 under Section 6 of the Act of 1905. Thereby, he authorized the Mandal Revenue Inspector,

Medipally Mandal, to carry out the eviction of the petitioner and take possession of the land in question.

As per the scheme of the Act of 1905, the Tahsildar would necessarily have to pass a reasoned order prior to taking action under Section 6 of the Act of 1905. Learned Assistant Government Pleader, Revenue, State of Telangana, was therefore asked to verify as to whether any separate order was passed by the Tahsildar, Medipally Mandal, before issuing the impugned notice dated 26.02.2019. Today, the learned Assistant Government Pleader would fairly concede before this Court that no separate order was passed by the Tahsildar and he straight away issued the impugned notice.

Perusal of the impugned notice demonstrates that no reasons whatsoever were set out by the Tahsildar as to why he found no merit in the stand taken by the petitioner in his reply dated 04.02.2019. Issuance of the notice simpliciter without passing a reasoned order pursuant to the Section 7 notice would not meet the requirements of law.

The impugned notice dated 26.02.2019 issued by the Tahsildar, Medipally Mandal, Medchal-Malkajgiri District, is accordingly set aside on this short ground. This order shall however not preclude the Tahsildar, Medipally Mandal, Medchal-Malkajgiri District, from passing a reasoned order under communication to the petitioner.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

15th MARCH, 2019

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