

HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.5250 of 2019

ORDER:

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

"For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the Notice No.D/13/2019 dated 04.01.2019 and also the action of the 3rd respondent in trying to dispossess the petitioner in respect of his land admeasuring 185 sq yds in premises bearing No.3-7-400/49/MR in Sy.No.112/E situated at Hyderguda, Rajendranagar Mandal, Ranga Reddy District, as illegal, arbitrary and violative of principles of natural justice and violative of Article 300A of Constitution of India and consequently direct the respondents not to dispossess the petitioner from the said land in any manner by setting aside the said notice and pass such other order or orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case."

Perusal of the impugned notice dated 04.01.2019 issued by the Tahsildar, Rajendranagar Mandal, Ranga Reddy District, reflects that it was issued under the provisions of the Telangana Water, Land and Trees Act, 2002 (for brevity, 'the Act of 2002'), whereby the Tahsildar called upon the petitioner to show-cause as to why his house should not be removed on the ground that it was built upon the Moosi river bed.

The petitioner submitted his explanation to the aforesaid notice on 25.02.2019 and the endorsement thereon bears out that the office of the Tahsildar, Rajendranagar Mandal, received it.

The apprehension of the petitioner presently is that the authorities may resort to coercive action without passing appropriate orders taking into consideration the explanation submitted by him.

As the impugned notice was issued under the provisions of the Act of 2002, it is not open to the authorities to resort to any direct action without passing an order after considering the explanation submitted by the petitioner.

Be it noted that any such order would be subject to appellate review under the provisions of the Act of 2002 and it would not be open to the primary authority to give effect to the order without waiting for the expiry of limitation for filing such an appeal.

The Writ Petition is accordingly disposed of directing the Tahsildar, Rajendranagar Mandal, Ranga Reddy District, to take note of the aforestated legal regime and act accordingly.

Pending Miscellaneous Petitions, if any, shall stand closed in the light of this final order. No order as to costs.

14th March, 2019
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JUSTICE SANJAY KUMAR