

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos. 15988 and 19066 of 2019

COMMON ORDER:

Since the petitioner in both the writ petitions is one and the same and as the issue involved is interconnected, they are clubbed together and are being disposed by this common order.

The petitioner asserts that her husband purchased an extent of 102 square yards of land in Survey No.377 of Attapur Village through a registered sale deed and constructed six mulgies thereon. While so, at the instance of Sri Jitender, notice dated 20.06.2017 under Section 7 of the Land Encroachment Act, 1905 (for short 'the Act') was issued to the petitioner and the same was challenged before this Court in W.P.No.15851 of 2018 and this Court disposed of the same *vide* order, dated 13.04.2018 directing the competent authority to examine the explanation of the petitioner on merits and pass orders and till then, no coercive action would be taken against the petitioner. Thereafter, no orders were passed, however, yet another notice invoking Section 7 of the Act came to be issued on 22.07.2019 and same was challenged before this Court by way of filing W.P.No.15988 of 2019, in which, this Court on 30.07.2019 having dissatisfied with the attitude of the authorities and by taking note of the order, dated 13.04.2018 passed in W.P.No.15851 of 2018, directed respondent No.4-Tahsildar, Rajendranagar Mandal to be present on 13.08.2019 and thereafter, nothing has happened and the petitioner is not aware of the said order. While the things stood

thus, final order dated 20.08.2019 came to be passed under Section 6 of the Act rejecting her explanation, as such, she challenged the same before this Court by way of filing W.P.No.19066 of 2019.

Learned counsel for the petitioner contends that in the initial notice, dated 20.06.2017, the extent of land alleged to have been occupied by the petitioner was mentioned as 50 square yards, whereas, in the notice, dated 22.07.2019, it was mentioned as 55 square yards and in the final order, dated 20.08.2019, it was mentioned as 50 square yards; that the petitioner is not in occupation of the land in Survey No.12 and his land is in Survey No.377 and the same was not considered by the respondent authorities; that in the final order, the explanation submitted by the petitioner was not considered though there is a specific direction issued by this Court; that in the notice, dated 22.07.2019, the proceedings number is mentioned as B/925/2011, whereas in the final order, proceedings number is mentioned as D/925/2011; that withdrawal of earlier notice and passing of final order under Section 6 of the Act have been done by the authorities with date back and there are *mala fides* on the part of the respondent authorities and that the authorities are behaving in a most irresponsible manner, as such, this Court should take a stringent view in the matter.

On the other hand, learned Government Pleader for Revenue submits that the petitioner had not come to the Court with clean hands and she has suppressed the fact that she herself filed an application seeking regularisation invoking G.O.Ms.No.59, dated

30.12.2014, and the regulation was in fact granted with respect to the land to an extent of 20 square yards and yet another application was made on 17.11.2017 seeking the same relief before the Revenue Divisional Officer. He would also assert that the impugned order is an appealable order and if the petitioner is aggrieved by the same, he has to file an appeal under Section 10 of the Act.

In view of the respective submissions, it is evident that a detailed order has been passed on 20.08.2019 in terms of the Act, which is admittedly an appealable order before the appellate authority. Neither the petitioner had chosen to implead the said individual as party respondent in the writ petition nor is there any specific *mala fides* have been attributed to the Officer by name. As of date, admittedly, notice dated 22.07.2019 came to be withdrawn and the same is evident from the very order, dated 20.08.2019. As rightly pointed out by the learned Government Pleader, the petitioner had not chosen to mention in the writ affidavit with respect to her filing an application for regularisation with regard to the land to an extent of 20 square yards. In the circumstances, this Court does not require further enquiry with respect to the alleged conduct of the Tahsildar.

Therefore, W.P.No.15988 of 2019 is closed as infructuous as the very notice which the petitioner challenged has been withdrawn.

Inasmuch as there is a remedy of appeal provided against the final order, dated 20.08.2019, and as this Court need not go into the merits of the matter in the given facts of the present case,

W.P.No.19066 of 2019 is disposed of leaving it open to the petitioner to workout her remedies in accordance with law.

Miscellaneous applications, if any pending, in these Writ Petitions shall also stand disposed of. No costs.

CHALLA KODANDA RAM, J

Dt:09.09.2019

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