

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.22766 OF 2019

DATED :18.10.2019

Between :

Smt D.K.Shruthi Reddy W/o.E.Suman Reddy,
Aged about 40 yrs, Occu : Business,
R/o.Raja Veedhi, Gadwal Town and Mandal,
Jogulamba Gadwal District,
(Earlier Mahabubnagar District)

.. Petitioner

And

The State of Telangana,
Rep., by its Principal Secretary to Govt
Revenue Department,
Telangana Secretariat, Hyderabad & others.

.. Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioner and learned Government Pleader for Revenue for respondents.

2. On 13.06.2019 notice in Form-7 was issued alleging that petitioner was in unauthorized occupation of Government land to an extent of Ac.0-15 guntas in Sy.No.88 of Sangala Village, called upon the petitioner to show cause why action should not be taken against her under the Land Encroachment Act, 1905 (for short 'the Act, 1905').

3. Petitioner filed W.P.No.15997 of 2019 challenging the notice issued in Form-7. This Court on 30.07.2019 directed the respondents that unless the order is passed under Section 6 of the Act, 1905 on due consideration of the explanation offered by the petitioner, petitioner should not be evicted. Initially the order was granted for a period of four weeks. The said writ petition came up for consideration on 11.09.2019. The writ petition was disposed of taking note of the fact that petitioner has already submitted explanation, and this Court directed the competent authority to pass orders under Section 6 of the Act, 1905, after considering the explanation and providing opportunity of hearing to petitioner, by assigning reasons in support of the decision. After the disposal of said writ petition, a show cause notice was issued on 05.10.2019 directing the petitioner to appear on 09.10.2019. It is stated that show cause notice was pasted on the petrol pump. As the petitioner was not in the Country at that time, the staff of the

petitioner's petroleum outlet went before the competent authority and requested him to grant some time stating that petitioner is not in the Country. Though such request was acknowledged by the Tahsildar, she ignored the same and based on the report obtained by her, passed order under Section 6 of the Act, 1905 on 11.10.2019. The same is under challenge in this writ petition.

4. From a reading of the order, it is apparent that no personal hearing was conducted. Having regard to the fact that request was made on behalf of petitioner even before the date fixed for hearing to grant adjournment on the ground that petitioner was not in the country, the Tahsildar ought not to have acted hastily in deciding the issue, more particularly having regard to the direction issued by this Court. Therefore as the order is not passed after affording due opportunity, the same is not sustainable and is liable to be set aside.

5. Accordingly, the order impugned is set aside. The Writ Petition is allowed and the matter is remanded to the Tahsildar-3rd respondent. The 3rd respondent shall fix a date of hearing within four weeks from the date of receipt of copy of this order with an advance intimation to the petitioner and on the date fixed by the 3rd respondent, petitioner shall appear and make her submissions with reference to the notice issued under Section 7 of the Act, 1905 as to why orders cannot be passed under Section 6 of the Act, 1905. If petitioner appears and makes her submissions, the same shall be taken note of in passing orders, as already directed by this Court in W.P.No.15997 of 2019. If petitioner fails to appear on the date fixed, it is open to the 3rd respondent to pass orders based on

the material available on record. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

18th October, 2019
Rds

