

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

W.P.Nos.19716, 21106, 22879,
23121 & 23561 of 2019

COMMON ORDER :

Heard the learned counsel for petitioners and the learned Government Pleader for Revenue and perused the record.

2. In all these writ petitions, petitioners claim that they are owners of private properties falling in different sub-divisions of Survey Nos.42, 43, 44, 45, 46, 47, 48 and 50 situated at Gandhamguda village, Gandipet mandal, Ranga Reddy district and they are in occupation of different extents of lands by constructing houses. On 21.8.2019, notices were issued under Section 7 of Telangana State Land Encroachment Act, 1905, alleging that the petitioners are in occupation of Government land in Survey No.43 of Gandhamguda village, Gandipet mandal by indicating the respective extents of such occupation. The notices call upon the addressees to submit explanation on or before 27.8.2019 or attending in person and offer explanation. On 29.8.2019, orders were passed holding that the petitioners are in unauthorised occupation of Government land in Survey No.43 of Gandhamguda village and ordered for eviction of the said persons. Notice under Section 6 was also issued on the same day.

3. Petitioners challenge these notices and orders primarily on the ground that the notices were not served on them and they were served on the vendors of petitioners/pasted on the building in issue and some of the petitioners are not aware of the notices issued and there was no sufficient time to respond to the notices and even

before the time granted, final orders were passed, affecting the rights of the petitioners.

4. According to the learned counsel appearing for petitioners in all the writ petitions, petitioners are not in occupation of Government land as claimed in the notices and if only sufficient time was afforded to them, they would have satisfied that they have not encroached into Government land. It is the further case of the petitioners that there is a serious dispute on the claim of the Government. According to the learned counsel Sri M.P.Chandramouli, some kind of survey was conducted behind the back of the petitioners and based on the said survey, an assessment is made as if petitioners have encroached into Government land, whereas the survey was not scientifically conducted and the said survey could not have been the basis to hold that the petitioners are in unauthorised occupation of Government land. Learned counsel therefore submits that there has to be proper survey and due opportunity be afforded to the petitioners to explain their stand in response to the notices issued under Section 7 of Land Encroachment Act. According to learned counsel Sri Madhusudhan Reddy, in W.P.No.23121 of 2019, no notice was issued to petitioners under Land Encroachment Act.

5. I see merit in the said contentions of the learned counsel. A reading of notices dated 21.8.2019 and orders dated 29.8.2019, it is apparent that very short time was given to the petitioners to respond and in many cases notices were not even served to the persons against whom orders of eviction were passed. If the Government is of the firm opinion that there is an encroachment of Government land, they should have followed due process and ensure eviction of the persons who are in unauthorised occupation of

Government land, but could not have taken steps in a hurried manner to throw out persons without affording due opportunity. Thus, the procedure followed is not valid in law.

6. In view thereof, all the writ petitions are allowed and matters are remanded to the 2nd respondent-Revenue Divisional Officer and 3rd respondent-Tahsildar, Gandipet mandal.

7. The Respondents 2 and 3 shall ensure that survey of land in Sy.No.43 of Gandhamguda village, Gandipet mandal be conducted by the Regional Joint Director, Survey and Land Records, Ranga Reddy district in the presence of petitioners with advance notice to them by indicating the time and date of conducting survey and after completion of survey, copy of survey report shall be made available to petitioners.

8. On securing the copy of survey report, petitioners shall file their explanation to show cause notice issued under Section 7 of Land Encroachment Act dated 21.8.2019 within two weeks from the date of receipt of survey report. On due consideration of survey report and explanation offered by petitioners, the respondents shall pass appropriate orders by assigning reasons in support of their decision.

9. Till then, the occupation of persons in their respective extents of lands/properties/structures shall not be disturbed. If the properties are already locked, the same be opened and allow the persons to occupy and enjoy the same, but subject to the condition that no further constructions shall be taken up and no third party interest shall be created. Petitioners are also directed to furnish their respective addresses to the Tahsildar, Gandipet mandal within

one week from the date of receipt of this order and if any of the petitioners do not furnish the addresses, the Tahsildar is entitled to take recourse by pasting the notices on the property/building concerned regarding conducting of survey and further proceedings and the same shall be treated as effective service. As a sequel, the miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

Date: 11.12.2019
DA

