

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.23151 OF 2019

Date:24.10.2019

Between:

Smt. D. Swapna, W/o. D. Ranjit
Kumar, aged about 37 years,
Occ: Employee, R/o.Flat No.202, Sector-D,
Alkapur Township, Puppalaguda Village,
Gandipet Mandal, Ranga Reddy District .. Petitioner

And

State of Telangana, rep., by its
Principal Secretary, Revenue
Department, Secretariat Buildings,
Hyderabad and others .. Respondents



The Court made the following:

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.23151 OF 2019****ORDER:**

Heard learned counsel for the petitioner, learned Assistant Government Pleader for Revenue for respondents 1 to 3 and Sri N. Praveen Kumar, learned standing counsel for Municipality for respondent No.4.

2. Petitioner alleges that she is the absolute owner and possessor of the Plot bearing No.217 in Survey No.44 admeasuring 150 sq. yards situated at Gandhamguda Village, Rajendranagar Mandal, Ranga Reddy District, having purchased the same through registered sale deed dated 19.09.2018. She further alleges that after obtaining permission for construction of ground + first floor, she commenced construction in accordance with the sanctioned plan. However, the Tahsildar, Gandipet Mandal, Ranga Reddy District, the 3rd respondent, issued notice under Section 7 of the Land Encroachment Act, 1905 (for short, 'the Act') impugned in the Writ Petition for eviction of the illegal encroachment over the Government land and also notice under Section 6 of the Act. Petitioner claims that notices under Sections 6 and 7 of the Act were not issued to her, but were issued to a person, by name, Mr. Kumar showing him as a builder.

3. According to learned counsel for the petitioner, petitioner applied for building permission; constructed house; Mr. Kumar is no way concerned and therefore the notice under Section 6 of the Act is not maintainable.

4. Learned Assistant Government Pleader for Revenue does not dispute the fact that notice was not served on the petitioner.

5. Even from a reading of the order, it is clear the notices were sent to Mr. Kumar, builder, and how Mr. Kumar is identified is not stated.

6. According to learned counsel for the petitioner, petitioner never assigned the construction work to any builder and she only started construction of the subject house after obtaining building permission from the concerned authority.

7. Thus, since notices were not issued to the petitioner and reasonable opportunity was not afforded to her, the notice under Section 6 of the Act is set aside. The matter is remitted to the Tahsildar, Gandipet Mandal, Ranga Reddy District, for consideration afresh. It is open to the Tahsildar to issue fresh notice to the petitioner under Section 7 of the Act, call for objections and on due consideration of the objections, take appropriate further course of action, as warranted by law.

8. The Writ Petition is accordingly allowed. Miscellaneous applications, if any, pending shall stand closed.

P.NAVEEN RAO, J

Date:24.10.2019

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