

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.5107 of 2020

ORDER :

This writ petition is filed challenging the notice dated nil--02--2020 issued under Section 6 of Land Encroachment Act, 1905 (for short "the Act") by the 4th respondent.

It is the case of the petitioner that he is the owner and possessor of house bearing No.9-5-28 admeasuring 474 square yards situated at Sapthagiri Colony, Karimnagar. The petitioner purchased subject land under registered sale deed vide document No.1302/1993, dated 03-03-1993 from one Sardar Dilip Singh and two others and constructed the house by obtaining building permission from Karimnagar Municipal Corporation vide proceedings No.G1/260/2007, dated 12-04-2007. The respondents were trying to demolish the compound wall of house of the petitioner, without following due process, on the ground that his name has appeared in the list containing the persons encroached upon the Government land to an extent of 60 square yards in Sy.No.1026. On that the petitioner filed WP.No.35406 of 2013 and said writ petition was disposed of by this Court on 05-12-2013. The petitioner filed application for regularization to the extent of 60 square yards of land and the same is pending with the respondents. It is also stated that respondent No.4 issued notice under Section 7 of the Act,

dated 07-12-2019 alleging that the petitioner encroached land to an extent of 155 square yards and he was directed to submit explanation. The petitioner submitted detailed explanation on 20-12-2019. But without giving any opportunity and without considering the explanation submitted by the petitioner, the impugned notice is issued.

Learned counsel for the petitioner submits that earlier to issuance of the impugned notice, the petitioner was issued notice and he filed explanation to the same. But without considering the same, the impugned notice is issued. He also submits that the impugned notice is bereft of reasons. In fact there is no opportunity of hearing to the petitioner before issuing notice under Section 6 of the Act, which is in violation of principles of natural justice.

On the other hand, learned Assistant Government Pleader for Revenue submits that since the subject land is 'sikam' land, the petitioner is not entitled for regularization of the same and the same is disputed by learned counsel for the petitioner. Learned counsel also submits that on earlier occasion in WP.No.35406 of 2013 this Court directed the respondents to follow due process of law in evicting the petitioner, but they have not followed the due procedure.

A perusal of the impugned notice goes to show that there is not even reference of explanation filed by the petitioner and no reasons are recorded, it is in the form of command. As such, the impugned notice is issued in

violation of principles of natural justice and the same is liable to be set aside.

In view of the same, the impugned notice is set aside. However, it is for the respondent-authorities to consider the explanation of the petitioner in proper perspective including the contention raised by learned Assistant Government Pleader that the subject land is 'sikam land' and after affording opportunity of hearing to the petitioner, pass appropriate orders.

Accordingly, the writ petition is allowed to the extent indicated above. No order as to costs. As a sequel, miscellaneous applications pending, if any, shall stand closed.

A. RAJASHEKER REDDY, J

05-03-2020
Nvl

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ARBITRATION APPLICATION No.97 of 2019



31.12.2019
(Msr)