

**HON'BLE SRI JUSTICE J. SREENIVAS RAO**

**WRIT PETITION No.24679 of 2012**

**ORDER:**

This Writ Petition filed seeking writ of mandamus declaring the action of the 2<sup>nd</sup> respondent passing a eviction order dated 04.08.2012 under proceedings Rc.No.101/R3/FP directing the petitioner to vacate the land admeasuring 1.09 ½ Gts. in Survey No.214/AA situated at Komatpally (V), Ramayampet Gram Panchayat and Mandal, Medak District bounded by North: Agriculture land of vendor, South Land of Vajra Stone Crusher, East: National Highway No.7 (New 44), West: Agriculture land of vendor as illegal, unlawful, arbitrary and violative of Article 300-A of the Constitution of India, with a consequential direction to set aside the eviction notice dated 04.08.2012 as issued by the 2<sup>nd</sup> respondent herein in his proceedings No.Rc.No.101/R3/FP in the interest of justice.

2. Heard Sri Eranki Phani Kumar, learned counsel for the petitioner, learned Assistant Government pleader for Forest appearing on behalf of respondent Nos.1 to 4.

3. Learned counsel for the petitioner vehemently contended that respondent No.2 issued a show cause notice dated 27.03.2012, stating that as per the rules, no permanent construction is allowed within the forest area and no permission was given by the Forest Department to the petitioner to erect M/s Jai Hanuman Filling Station under the dealership of Bharat Petroleum Corporation at Compartment No.141 within forest range. In spite of the same, the petitioner has erected a permanent structure like petrol bunk in contravention to the Rules. Hence, directed the petitioner to submit explanation within a period of seven (7) days as to why the action should not be taken to remove the construction from the encroached land as per Section 20(3) of Andhra Pradesh Forest Act, 1967.

4. Learned counsel for the petitioner further submits that the petitioner submitted detailed explanation on 27.04.2012 along with relevant documents to establish his

claim of possession and title of subject property within the stipulated time to respondent No.2 and respondent No.2 has not passed any order. He further submits that respondent No.3 has issued another notice on 24.07.2012 on the very same allegation but without mentioning earlier notice dated 27.03.2012 and submission of explanation dated 27.04.2012, directed the petitioner to submit the explanation within a period of five (05) days. He further submits that pursuant to the notice dated 24.07.2012, the petitioner submitted his reply through his counsel on 05.08.2012. Respondent Nos.2 and 3 without considering the explanations submitted by the petitioner pursuant to the notices issued on 27.03.2012 and 24.07.2012 passed impugned order vide RC.No.101/R3/FP dated 04.08.2012 directing the petitioner to remove the structure and petrol bunk from the subject land within a period of seven (7) days. He further submits that impugned order passed by respondent No.2 is clear violation of the principles of

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

5. Per contra, learned Assistant Government Pleader contended that the subject land belongs to the Forest Department and respondent No.2 has rightly passed the eviction order.

6. Having considered the rival submissions made by the respective parties and after going through the records, it clearly reveals that the respondent No.2 has initially issued a show cause notice on 27.03.2012 directing the petitioner to submit explanation as to why the action should not be taken against him for removal of the structures which were existing in the subject land. Pursuant to the same, the petitioner submitted detailed explanation on 27.04.2012 by enclosing all the relevant documents but respondent No.2 has not passed any order. Thereafter, respondent No.3 has issued another show cause notice on 24.07.2012 with the same allegation, even

without mentioning the issuance of earlier notice dated 27.03.2012 submission of the explanation dated 27.04.2012, for which the petitioner submitted reply on 05.08.2012 through his counsel. Respondent No.2 without giving any opportunity and without considering the explanation submitted by the petitioner passed the impugned order dated 04.08.2012. Learned counsel for the petitioner has rightly contended that the impugned order passed by the respondent No.2 is clear violation of the principles of natural justice.

7. In view of the same, impugned order passed by the respondent No.2 dated 04.08.2012 is set aside and the writ petition is allowed. However, opportunity is given to the respondents to consider the explanations dated 27.04.2012 and 05.08.2012 submitted by the petitioner, pursuant to the show cause notices dated 27.03.2012 issued by respondent No.2 and 24.07.2012 issued by respondent No.3 respectively and pass

appropriate orders, in accordance with law, after giving opportunity to the petitioner including personal hearing within a period of three (3) months from the date of receipt of the copy of the order.

8. Accordingly, the writ petition is allowed. There shall be no orders as to costs.

Miscellaneous applications, pending if any, shall stand closed.

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**JUSTICE J. SREENIVAS RAO**

1<sup>st</sup> March, 2023  
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**44**

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