

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO.20696 OF 2023

ORDER:

The present Writ Petition is filed seeking the following relief:

"..declaring the proceedings of the 5th respondent in RC.No. nil date/2020 dated 7.8.2023 u/s 7 of the AP Land Encroachment Act, 1905 there by giving 72 hours time to vacate the premises of petitioners land admeasuring Ac.0.9 1/2 cents in Survey No.2452 wrongly shown as Sy.No.2461 by the 5th respondent in the impugned notice Mulupur Village Amruthalur Mandal Bapatla District trying to dispossess the petitioner of his land as illegal contrary to law arbitrary against the principles of natural justice and violation of Article 300-A and 14 of the constitution of India and set aside the same consequently directing the 5th respondent authorities to not to interfere with the possession and enjoyment of the petitioners land admeasuring Ac.0.9 1/2 cents in Survey No.2452 wrongly shown as Sy.No.2461 by the 5th respondent in the impugned notice of Mulpur Village, Amruthalur Mandal, Bapatla District and pass.."

2. Heard Smt. Marella Radha, learned counsel for the petitioner, learned Assistant government Pleader for Panchayat Raj and learned Assistant Government Pleader for Revenue.

3. Learned counsel for the petitioner submitted that, the Panchayat Secretary without any jurisdiction and without any manner of right has issued the notice dated 07.08.2023 under Section 7 of Andhra Pradesh Land Encroachment Act, 1905 and thereby trying to dispossess the petitioner from the subject property. If the respondent authorities are allowed to dispossess the petitioner from the subject property, great prejudice and

hardship will be caused to the petitioner and also the petitioner's right would be affected. As such, prayed to protect the interest of the petitioner.

4. Perused the record.

5. A perusal of the impugned notice dated 07.08.2023 shows that, it was issued by the Panchayat Secretary as per Section 7 of the A.P. Land Encroachment Act, 1905. The provisions of the Act, only empowers the Collector, Tahsildar & Deputy Tahsildar to issue notice under Section 7 of the Act but not the Panchayat secretary. Hence, the impugned notice issued by the Panchayat Secretary is beyond the authority and powers conferred on him by the Act. Since the notice has been issued without jurisdiction, the same is liable to be set aside.

Accordingly, the writ petition is **allowed**. By setting aside the impugned notice dated 07.08.2023. However the respondent authorities are directed not to interfere with the petitioner's property admeasuring Ac.0.9 1/2 cents in Survey No.245-2(Wrongly shown as Sy.No.246-1 by the 5th respondent in the impugned notice) except under due process of law. No costs.

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

11.08.2023,
BRS