

APHC010242432025



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3329]

FRIDAY ,THE NINTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 12532/2025

Between:

Pagoti Subbi Naidu

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.UMASANKAR LOKANADHAM

Counsel for the Respondent(S):

1.GP FOR REVENUE

The Court made the following Order:-

1. This writ petition is filed under Article 226 of the Constitution of India claiming the following relief:

“to issue an appropriate Writ, order or direction mostly one which is in the nature of a Writ of Mandamus declaring the action of the 3rd Respondent by issued the ante dated impugned notice vide Rc.No.79/2025/A/. 28.02.2025 served on dated 16/04/2025 under section 7 of AP Land encroachment Act 1905 , and another notice vide Rc No. 06/2025.A.dt. 03.03.2025 basing on the complaint dt. 17.12.2024 interfering into my subject schedule property Ac.0.70 cents of agriculture land in

Sy No. 6-2 situated in Lingalavalasa revenue village, Jalumuru Mandal of Srikakulam district by trying to interfere and dispossess the petitioner, as illegal, irregular, arbitrary, unjustified, unconstitutional and unsustainable and direct the Respondents to forbear from taking any further steps in that regard”

2. The learned counsel for the petitioner submits that the petitioner is the absolute owner and possessor of the dry land admeasuring to an extent of Ac.0.70 cents of agriculture land in Sy.No. 6-2 situated in Lingalavalasa revenue village, Jalumuru Mandal of Srikakulam District. The subject property is an ancestral property and the petitioner issued pattadar passbooks and title deed in respect of the subject property. Thereafter the petitioner has been in possession and enjoyment of the subject property. He submits that the 3rd respondent issued impugned notices dated 28.02.2025 and 03.03.2025 under Section 7 of the A.P. Land Encroachment Act, 1905, basing on the complaint filed by the unofficial respondent and called for explanation from the petitioner as to why action shall not be initiated as per the provisions of the A.P. Land Encroachment Act, 1905. Even though the petitioner is willing to submit detailed explanation to the impugned notice issued by the 3rd respondent dated 28.02.2025 and 03.03.2025, the 3rd respondent is not considering the same and threatening to dispossess the petitioner. Hence, the present writ petition.

3. During hearing, learned counsel for the petitioner submits that even though Section 7 of the A.P. Land Encroachment Act, 1905

provides an opportunity to the petitioner to offer an explanation within seven days, the 3rd respondent is not accepting the same and requested this Court to direct the 3rd respondent to consider the explanation submitted by the petitioner in accordance with law.

4. On the other hand, learned Government Pleader for Revenue, supported the action of the 3rd respondent in issuing the impugned notice after determination of the nature of land and occupation without any valid permission from the competent authority and also assessed in all respects and requested to dismiss the writ petition.

5. Heard learned counsel for the petitioner, learned Government Pleader for Revenue and perused the material available on record.

6. As seen from the material on record including the show-cause notice issued under Section 7 of the Act, the petitioner is admittedly in possession of the property, but his possession is an encroacher. Apart from that, a notice issued under Section 7 of the Act is only a show-cause notice calling for explanation of the petitioner within a period of 7 days as to why he should not be evicted from the property and encroachment should not be removed. But, the only contention is that the 3rd respondent is not accepting and considering the explanation of the petitioner.

7. Even assuming for a moment that this petitioner is an encroacher, who is allegedly in unauthorized possession of the property, still after

issuing notice under Section 7 of the A.P. Land Encroachment Act, the respondent/ Tahsildar is required to pass detailed order after affording opportunity reasonably to the petitioner, as held in the case **Kadiyala Sudershan and others Vs. Government of Andhra Pradesh**¹.

8. Section 7 of the Act envisages a show-cause notice pre- supposes that the competent authority has to deal with the explanation/objections filed by the person in possession of the land. Unless a reasoned order is passed, the person in occupation of the land does not know as to why an order of eviction is passed against him. Unless the order contains reasons, the appellate authority will not be in a position to examine the validity or otherwise of the order and decide the appeal.

9. Hence, this Court deems it appropriate to permit the petitioner to submit explanation to the 3rd respondent Tahsildar pursuant to the Notice dated 28.02.2025 and 03.03.2025, under proper acknowledgment, within two weeks from the date of receipt of copy of this order. Thereafter, the 3rd respondent shall consider the explanation submitted by the petitioner and pass appropriate orders within two (02) months thereafter. In the meanwhile, the respondents are directed not to take any coercive steps against the petitioner.

¹ 1 2013 (6) ALT 42

10. With the above direction, writ petition is disposed of. No costs.

11. Consequently, miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE VENKATESWARLU NIMMAGADDA

Date:09.05.2025

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THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 12532/2025

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