

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.2706 of 2013

ORDER:

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The petitioner states that he is the owner of house bearing No.1-9-668, admeasuring about 150 square yards, situated at Adikmett, Vidyanagar, Hyderabad. He has explained the source of his title to the property. The petitioner feels aggrieved by the proceedings, dated 29.11.2012, issued by the Chief Executive Officer of the A.P. State Wakf Board, the 1st respondent herein, under Section 54 (3) of the Wakf Act, 1995 (for short 'the Act') requiring him to remove the encroachment over an extent of 16 square yards. The petitioner submits that no notice was served upon him before the impugned order was passed and that the order is violative of principles of natural justice.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the 1st respondent.

The 1st respondent initiated proceedings under Section 54 of the Act alleging that the petitioner has encroached into 16 square yards of land pertaining to a Wakf institution, by name Chilla Hzt Mahboob Subhani at Adikmett. Section 54 of the Act mandates that before an order of eviction is passed by the 1st respondent, notice must be issued. Though it is stated in the impugned order that notice, dated 06.06.2012, under Section 54 (1) of the Act was issued, it was not even mentioned that it was

served upon the petitioner. Mere issuance would not serve the purpose. The petitioner can be given an opportunity to submit explanation by treating the impugned order itself as show cause notice.

Hence, the writ petition is allowed and the impugned order is set aside. The impugned order shall be treated as show cause notice under Section 54 (1) of the Act and the petitioner shall be entitled to submit explanation within 15 days from today. The 1st respondent shall consider the same and pass appropriate orders thereafter. There shall be no order as to costs.

The miscellaneous petition filed in this writ petition shall also stand disposed of.

L.NARASIMHA

REDDY,J

Dt:28.02.2013

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