

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

THE HON'BLE SRI JUSTICE B KRISHNA MOHAN

**FRIDAY, 26th DAY OF MAY, TWO THOUSAND AND
TWENTY THREE**

WRIT PETITION No.13625 of 2023

Thummalapalli Kannamba, W/o. late
Venkatarao, aged 60 years, Occ:
Housewife, R/o.25-20-16, NR Peta
Eluru, Eluru District and 8 others.

.... Petitioner

Versus

Estate Officer & Addl. Divisional Railay
Manager, South Central Railway,
Vijayawada and 3 others.

....Respondents

ORDER:

Heard the learned counsel for the petitioners and the
learned counsel appearing for the respondents.

2. This Writ Petition is filed questioning the
proceedings of the 1st respondent, dated 17.05.2023 issued
in the Form of Notice under Sub-section(2) of section 5 of the
Public Premises of Unauthorized Occupants Amendment Act,
1980 and as per Sub-section (1) of the Section 5 of the said
Act in respect of the each petitioners served individually.

3. The learned counsel for the petitioners submits
that, the petitioners are the absolute owners and possessors

of their respective houses in an extent of 100 Sq.yards to 150 Sq.yards as the case may be detailed as under in the table:

S.No.	Name of petitioner	House Number	House Extent in Sq.yards
1.	Thummalapalli Kannamba	25-20-16	100
2.	Golla Chinna W/o. Ramana	25-20-23	150
3.	Shaik Fathima	25-14-15/1	100
4.	Talari Munemma	25-20-24	100
5.	Vanama Anajani Chaitanya Kumar	25-20-15	150
6.	Yalla Rajyalakshmi	25-20-16	100
7.	Maganti Dhanalakshmi	27-22-41/2	150
8.	Gudla Lakshmi Narayana	22D-2-62	150
9.	Salapakshi Lakshmamma	25-20-24	100

Situated as per the schedule shown in the individual impugned notices of the 1st respondent, dated 17.05.2023. Initially the 1st respondent issued notice, dated 25.08.1990 to the predecessors in the title of the petitioners. They challenged the same in W.P.No.16174 of 1990 before the erstwhile High Court of Andhra Pradesh and it was disposed

of directing them to prefer an appeal before the learned District Judge, Eluru. All the cases were clubbed together in AS.No.98 of 1991 and the then notice issued by the 1st respondent was set aside directing the appellants therein to submit their evidence on or before 10.08.1997, failing which the 1st respondent was given liberty to pass appropriate orders. Consequently, the 1st respondent issued eviction notice in Form-A, after long lapse of time to the petitioners and the same was challenged in W.P.No.22942 of 2014 before the then common High Court at Hyderabad. After the bifurcation of the Hon'ble High Court it was listed on 24.04.2023 and the leave was granted to the respondents to file the counter. The matter was listed on 24.04.2023 under the caption for dismissal and it was dismissed for default due to non representation for the petitioners. Thereafter, the 1st respondent issued the fresh notice, dated 17.05.2023 in respect of each petitioner which are assailed in common in this Writ Petition. By virtue of the said impugned proceedings of the 1st respondent dated 17.05.2023, the petitioners are directed to vacate the premises by 23.05.2023 and the 1st respondent came along with the Railway Police

Force to visit the houses of the petitioners for their demolition on 24.05.2023 also.

4. The learned counsel for the petitioners submits that, the enquiry contemplated under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is a summary enquiry and no opportunity was given to the petitioners to participate in the said enquiry and the impugned proceedings of the 1st respondent, dated 17.05.2023 also discloses the non participation of the petitioners and as such it cannot be treated as an order passed under section 5 of the said Act on merits.

5. On the other hand, the learned counsel appearing for the respondents submits that, as it is there is no threat of demolition of the houses and the 1st respondent will follow the due procedure under the provisions of the Act 40 of 1971.

6. In view of the above said facts and circumstances, the impugned notices, dated 17.05.2023 issued under the above said Act 40 of 1971 shall be treated as show cause notices by the 1st respondent and the petitioners shall be permitted to participate in the enquiry under the said

provisions of the Act. For which, the petitioners are given two (02) weeks time from the date of receipt of this order to submit their individual explanations along with the necessary documents to substantiate their claim with respect to the schedule mentioned in each of the impugned proceedings of the 1st respondent, dated 17.05.2023. On receipt of such explanation along with the enclosures from the petitioners, after hearing all the parties concerned, including the petitioners and upon verification of the records and the subject land/schedule property of the petitioners covered under each of the impugned proceedings, dated 17.05.2023, the 1st respondent shall pass final orders on merits by exercising the powers duly under the provisions of the Act 40 of 1971 on its own merits. Till the disposal of the cases of the petitioners under the above said impugned proceedings of the 1st respondent, dated 17.05.2023 there shall be an order of *Status-Quo* as on today to be maintained with respect to the schedules covered under the above said impugned proceedings of the 1st respondent, dated 17.05.2023. Appropriate decision shall be taken by the 1st respondent with respect to the schedules of the properties involved

basing upon the final orders that may be passed by the 1st respondent as indicated above.

7. Accordingly, the Writ Petition is disposed of. No costs.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE B KRISHNA MOHAN

26.05.2023
KMS

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