(1999) 07 AP CK 0029

In the Andhra Pradesh High Court

Case No : Writ Petition No. 15336 of 1999

Annangi Venkatarathnam APPELLANT

Vs

Joint Collector, Nellore and another RESPONDENT

Date of Decision : 23-07-1999

Acts Referred:

Andhra Pradesh Land Encroachment Act, 1905 — Section 7
Constitution of India, 1950 — Article 226

Citation : (1999) 5 ALD 6 : (1999) 4 ALT 539 : (1999) 2 APLJ 205

Hon'ble Judges : S. R. Nayak, J

Bench : Single Bench

Advocate : M/s. M.P. Chandra Mouli and Katta Janardhana Rao, for the Appellant; Government Pleader for Revenue, for the Respondent

Judgement

1. Rule nisi. Learned Government Pleader for Revenue took notice for the respondents. The writ petition was heard finally with the consent of the learned Counsel for the parties.

2. The writ petition is directed against the show-cause notice issued u/s 7 of Act 3 of 1905. Assailing the impugned action, the learned Counsel for the petitioner would contend that the subject land is not a Government land and unless the Mandal Revenue Officer, after due application of mind, forms the opinion that the subject land is the Government land, hecannot have the jurisdiction to issue the impugned notice, and there is nothing in the impugned notice to reflect the application of mind on the part of the Mandal Revenue Officer.

3. I should state at the threshold that this writ petition is liable to be dismissed in limine having regard to the binding authorities of the Supreme Court and this Court. The Supreme Court in State of Uttar Pradesh v. B.D. Sharma, AIR 1987 SC 947, handed down the opinion that the Court shall not interfere with the statutory notice. A Division Bench of this Court also in Special Officer, Urban Land Ceilings, Nampally, Hyderabad and others Vs. M. Vijayalakshmi and others, , opined to the same effect. The question whether the subject land is Government

land or not is a pure question of fact and may be jurisdictional fact. If it is the case of the petitioner that the subject land is not the Government land, he should appear before the Mandal Revenue Officer and putforth that plea supported by the evidence in his possession. But, from the point of view of the Mandal Revenue Officer, he has made it abundantly clear that the subject land is the Government land. Therefore, it cannot be said that the Mandal Revenue Officer inherently lacks jurisdiction to issue the impugned notice. If the petitioner ultimately establishes that the subject land is not the Government land and nevertheless the Mandal Revenue Officer passes adverse final order against the petitioner, the Court, at that stage, can intervene, but the Court cannot interdict the proceedings initiated by the Mandal Revenue Officer under the Statute on the assumption that the subject land is not the Government land.

4. The writ petition is therefore dismissed. No costs.