

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.18267 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking following relief:

“to issue Writ of Mandamus declaring the proceedings of the 1st respondent in Memo No.1209/LTR.2/2015 dt:30-5-2015 rejecting petitioners' request for grant of stay pending revision filed on 20-02-2015 filed against the order of the 2nd respondent dt:17-01-2015 in C.M.A.No.23/2011 confirming the order of the 3rd respondent in case No.308/2001/ENK dt:22-04-2006 as illegal, arbitrary and violative of principles of natural justice and consequently direct the 1st respondent to consider and dispose of the revision itself within a reasonable time and further direct the respondents or their subordinate staff not to dispossess the petitioners from their land in Sy.No.278/A to an extent of Ac.4-26 guntas situated at Burada Raghavapuram village, Enkoor mandal of Khammam district, pending disposal of the revision on the file of the 1st respondent.”

Heard Sri M.V. Hanumantha Rao, learned counsel for the petitioners and learned Government Pleader for Social Welfare.

The Special Deputy Collector (Tribal Welfare), Bhadrachalam, Khammam District – 3rd respondent herein passed an order of ejectment against the petitioners herein in respect of the land admeasuring Ac.4-26 guntas situated at Burada Radhavapuram village, Enkoor mandal, Khammam District. As against the said order the petitioners herein preferred C.M.A.No.23 of 2011 before the Additional Agent to the Government and Project Officer, ITDA, Bhadrachalam, Khammam District – 2nd respondent

herein. The 2nd respondent vide order, dated 17-01-2015 dismissed the said appeal filed by the petitioners herein.

Assailing the validity of the said orders passed by the respondents 2 and 3 herein the petitioners herein preferred statutory revision before the 1st respondent – State Government on 20-02-2015 along with stay application. The 1st respondent – State Government by virtue of Memo No.1209/LTR.2/2015, dated 30-05-2015 dismissed the stay application filed by the petitioners herein while sending the revision petition to the Additional Agent to the Government for parawise remarks and for connected records.

Calling in question the validity and the legal sustainability of the said order passed by the 1st respondent – State Government vide memo, dated 30-05-2015 the present writ petition has been filed.

In the present writ petition it is the case of the petitioners herein that before passing the said order, dated 30-05-2015 rejecting the stay application the 1st respondent herein did not issue any notice nor afforded any opportunity of being heard to the petitioners herein. It is also the submission of the learned counsel for the petitioners that the order impugned is a cryptic order and the 1st respondent did not assign any reasons for rejection of stay application. It is also the grievance of the petitioners herein that in view of the rejection of the stay application filed by the petitioners herein the 4th respondent is taking steps to eject the petitioners

herein from the schedule property and is attempting to file a complaint as per the directions of the 2nd respondent. It is further submitted that in the event of the dispossession of the petitioners in pursuance of the order of the 2nd and 3rd respondents, pending disposal of the revision before the 1st respondent, they will be put to grave loss and the very purpose of filing revision will become futile. It is also the submission of the learned counsel for the petitioners that without there being any order of the 3rd respondent – Special Deputy Collector in the Execution Petition there cannot be any eviction of the petitioners herein in view of the provisions of Rule 7 (4) of the Andhra Pradesh (Scheduled Areas) Land Transfer Regulation Rules, 1969.

On the contrary, it is vehemently contended by the learned Government Pleader that there is no illegality nor any infirmity in the order passed by the 1st respondent herein rejecting the stay application.

The revision filed by the petitioners herein in the instant case is a statutory revision under the Andhra Pradesh (Scheduled Areas) Land Transfer Regulation, 1959. Admittedly, the revision filed by the petitioners herein is pending for consideration before the 1st respondent herein. A perusal of the impugned Memo No.1209/LTR.2/2015, dated 30-5-2015 issued by the 1st respondent, in unequivocal terms, reveals that the 1st respondent herein without assigning any reasons rejected the stay application filed by the petitioners herein. Having called for remarks and connected records from the 2nd respondent herein, there is

absolutely no justification on the part of the 1st respondent herein in rejecting the stay application without any reasons.

In the facts and circumstances of the case, this Court deems it appropriate to direct the 1st respondent herein to dispose of the revision filed by the petitioners herein on 20-02-2015, in accordance with law.

For the aforesaid reasons and having regard to the nature of controversy and taking into consideration the totality of circumstances, the writ petition is disposed of, directing the 1st respondent herein to dispose of the revision, dated 20-02-2015 filed by the petitioners herein against the orders of the 2nd respondent, dated 17-01-2015 in C.M.A.No.23 of 2011, in accordance with law, within a period of three (3) months from the date of receipt of a copy of this order. Till such exercise attains finality, *status quo* as on today shall be maintained with regard to the subject property. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SETHA SAI, J

June 23, 2015

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