

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

-
WRIT PETITION No.15156 OF 2006
-

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India assails the order passed by the Additional Agent to State Government Project Officer, ITDA, Eturnagaram, Warangal District, vide Rc.No.Appeal No.1/Enr/2005, dated 13.04.2006, whereby and where under, the 3rd respondent has set aside the order of the Special Deputy Collector (Tribal Welfare)/

4th respondent passed in Case No.42/LTR/Mulug/71, dated 26.07.1975.

2. Heard Sri Sadasiva Rao Pamulaparty, learned counsel, appearing for the petitioners and learned Government Pleader for Social Welfare, appearing for the respondents 3 to 5, apart from perusing the material available on record. Despite service of notice, there is no representation for the respondents 1 and 2.

3. According to the petitioners, they are the owners and possessors of land admeasuring Acres 4.15 guntas situated in Survey Nos.86 & 87 of Kondai Village, Etrunagaram Mandal, Warangal District. Earlier, at the instance of the 1st respondent herein, the Special Deputy Collector (Tribal Welfare)/

4th respondent herein pressed into service the provisions of Land Transfer Regulations and after holding enquiry, 4th respondent passed an order in Case No.42/LTR/Mulug/71, dated 26.07.1975 in favour of the petitioner herein, holding that the questioned transactions would not attract the provisions of the A.P.Schedule Areas Land Transfer Regulation 1 of 1959 (as amended by A.P.Schedule Areas Land Transfer (Amendment) Regulation of 1970).

4. Respondents 1 and 2 having kept quiet for more than 3 decades (30 years), once again filed an application before the 3rd respondent/Additional Agent to State Government. The

3rd respondent passed an order vide Rc.No.Appeal No.1/Enr/2005, dated 13.04.2006, setting aside the order passed by the

4th respondent in Case No.42/LTR/Mulug/71.

5. Calling in question, the validity and legal sustainability of the said order passed by the 3rd respondent/Additional Agent to State Government, on 13.04.2006, the present writ petition came to be filed.

6. While ordering '*Rule Nisi*' on 24.07.2006, this Court in W.P.M.P.No.18869 of 2006 granted interim suspension of the impugned orders.

7. Neither the official respondents nor the unofficial respondents have filed any counter, opposing the writ petition.

8. The material available on record, in clear and unequivocal terms, shows that the respondents 1 and 2 herein filed an application before the 3rd respondent herein against the orders of the 4th respondent herein dated 26.07.1975, after lapse of more than 3 decades (30 years) and there is no plausible action forthcoming for the said inordinate and exorbitant delay in approaching the 3rd respondent.

9. As per the provisions of Regulation 3(a)(ii) of the A.P.Scheduled Areas Land Transfer Regulations, 1959, against the orders passed by the 4th respondent, Appeal lies to the 3rd respondent and as per Rule 8(2) of A.P.Schedule Areas Land Transfer Rules, 1969, said Appeal is required to be filed within a period of two months.

10. In the instant case, the respondents 1 and 2 approached the 3rd respondent in the form of Appeal after lapse of more than 30 years and as rightly pointed out by the learned counsel for the petitioner, there is absolutely no plausible explanation for the said delay.

11. A perusal of the order under challenge clearly shows that the Additional Agent to Government/3rd respondent herein did not examine the said aspect of delay and did not take into consideration the relevant provisions of law, which deal with the delay aspect. In the considered opinion of this Court, the very action of entertaining the

Appeal after lapse of 3 decades without any plausible and proper explanation is highly illegal, arbitrary, unreasonable and is opposed to very spirit and object of the provisions of A.P.Scheduled Areas Land Transfer Regulations, 1959.

12. The facts and circumstances of the case drive this Court towards an irresistible conclusion that the impugned action on the part of the respondents herein cannot stand for the twin-tests of reasonableness and rationality.

13. For the aforesaid reasons, writ petition is allowed, setting aside the orders of the 3rd respondent/Additional Agent to State Government, passed in Rc.No.Appeal No.1/EnR/2005, dated 13.04.2006.

14. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

15.12.2015
SS