

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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WRIT PETITION No.21859 of 2015

Between:

Ganji Babu Rao and another

.. Petitioners

and

The State of Telangana and others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 15.07.2015

SUBMITTED FOR APPROVAL:

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

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals? | Yes/No |
| 3. Whether his Lordship wishes to
see the fair copy of the Judgment? | Yes/No |

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

WRIT PETITION No.21859 OF 2015

ORDER:

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

“to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent (Revision authority) in making memo No.3330/LTR-2/2015-1, Dt.30-5-2015 in violation of principles of natural justice, Section 300-A of the Constitution of India and in violation of orders Dt.24-4-2015 made in W.P.No.11741 of 2015 and consequently direct the respondents not to dispossess the petitioner pending revision Dt.23-3-2015 made against the orders Dt.28-9-2013 in C.M.A.No.322/2007 of 2nd respondent confirming the 3rd respondent order Dt.10-6-2005 made in L.T.R.Case No.470/98/KGM of 2nd respondent.”

2. Heard Sri S.Madan Mohan Rao, learned counsel for the petitioners and learned Government Pleader for Social Welfare.

3. According to the petitioners, they are the owners and possessors of the land, admeasuring Ac.3.17 guntas in Survey No.17/A of Chatakonda village, Kothagudem Mandal, Khammam District and the revenue records also reflect their names as owners, possessors and enjoyers. It is further stated that the petitioners' father, Sri Ganji Anand Rao purchased the said land from pattadar, B.M.Ramalingam, in the year 1966 for valid consideration. It is further stated in the affidavit filed

in support of the writ petition that earlier their father subsequently, the petitioners herein have been in possession and enjoyment of the property and the names of the petitioners are also mutated in the revenue records. It is also stated that the petitioners' father purchased the property prior to the date of the commencement of the Land Transfer Regulations.

4. The Special Deputy Collector (TW), Bhadrachalam – third respondent herein pressed into the service the provisions of the Land Transfer Regulations and passed an order dated 10.06.2005 under Case No.470/98/KGM ordering ejectment of the petitioners herein from the subject property under Sub-Section 2(a) of Section 3 of Regulation 1 of 1959.

5. Felt aggrieved by the said order of ejectment passed by the third respondent herein, the petitioners preferred an appeal before the Additional Agent to Government, Bhadrachalam – second respondent herein vide C.M.A.No.322 of 2007. The second respondent by virtue of an order dated 28.09.2013 dismissed the said appeal filed by the petitioners herein. Aggrieved by the said order passed by the second respondent, the petitioners herein preferred revision before the first respondent – State Government and along with the said revision, the petitioners herein also filed stay application. Earlier, questioning the inaction on the part of the first respondent in passing any orders on the stay application, the petitioners filed W.P.No.11741 of 2015 before this Court and this Court by way of an order dated 24.04.2015 disposed of the said writ petition, directing the State Government to dispose of either the stay petition or the main revision filed by the petitioners herein, in accordance with law, within a period of three months while granting stay of dispossession of the petitioners pending disposal of the revision by the second respondent.

6. Subsequently, the first respondent vide memo No.3330/LTR-

2/2015-1 dated 30.05.2015 rejected the stay application filed by the petitioners herein while calling for parawise remarks from the Additional Agent to Government, ITDA, Bhadrachalam, Khammam District.

7. Calling in question the legal sustainability of the said order passed by the first respondent – State Government, the present writ petition has been filed.

8. It is contended by the learned counsel for the petitioners that the impugned memo, dated 30.05.2015, rejecting to grant stay pending disposal of the revision petition filed by the petitioners herein is highly arbitrary, illegal and in violation of Articles 14 and 300-A of the Constitution of India. It is further submitted by the learned counsel for the petitioners that the first respondent herein, without considering the material available on record and without referring to *prima facie*, the grounds of revision and the contents of the affidavit filed in support of the stay application, passed the impugned order of rejection. It is also pointed out by the learned counsel for the petitioners that while disposing of W.P.No.11741 of 2015, this Court granted stay of dispossession of the petitioners pending disposal of the revision and as such, the impugned memo is in contravention of the orders passed by this Court. The learned counsel further submitted that the second respondent – Additional Agent to Government while dismissing the appeal filed by the petitioners herein directed the Tahsildar, Kothagudem to take over the possession of the schedule land by evicting the petitioners herein. It is also submitted that the fourth respondent – Tahsildar is contemplating to give effect to the orders of the second respondent to evict the petitioners herein.

9. Per contra, it is strenuously contended by the learned Government Pleader that the memo dated 30.05.2015, which is impugned in the present writ petition, is in conformity with the

provisions of Land Transfer Regulations and there is no illegality nor any procedural infirmity in the impugned memo and as such, the writ petition is not maintainable and the petitioners are not entitled to any relief from this Court.

10. The information available before this Court manifestly discloses that as against the order of ejectment passed by the primary authority i.e., Special Deputy Collector (TW), the petitioners herein filed C.M.A.No.322 of 2007 before the second respondent and the second respondent herein, while dismissing the said appeal thereby confirming the orders of ejectment, directed the Tahsildar, Kothagudem – fourth respondent to take possession of the schedule land. Subsequently, when the first respondent – State Government did not pass any order on the stay application filed by the petitioners herein along with revision petition, the petitioners herein approached this Court by way of filing W.P.No.11741 of 2015 and this Court disposed of the said writ petition by way of an order dated 24.04.2015 by directing the State Government either to dispose of the said application or the main revision while granting stay of dispossession pending disposal of the revision before the State Government. Now by virtue of impugned Memo dated 30.05.2015, the first respondent herein, while calling for the records and parawise remarks from the Additional Agent to Government against whose order, the revision has been filed by the petitioners herein, refused to grant stay of the orders passed by the second respondent in C.M.A.No.322 of 2007 on the ground that there are no justifiable grounds. This, in the considered opinion of this Court, is highly arbitrary and preposterous in the teeth of the orders passed by this Court in W.P.No.11741 of 2015 wherein this Court granted stay of dispossession of the petitioners pending disposal of the revision. In these circumstances, this Court has absolutely no scintilla of hesitation nor any traces of doubt to hold that the impugned action of the first respondent which culminated in the

impugned Memo dated 30.05.2015 cannot be sustained.

11. For the aforesaid reasons, the Writ Petition is disposed of, directing the first respondent herein to pass appropriate orders on the revision dated 27.02.2015 filed by the petitioners herein against the order of the second respondent dated 28.09.2013 in C.M.A.No.322 of 2007, in accordance with law, after giving opportunity of hearing to the petitioners herein 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 with regard to subject property shall be maintained by the parties. There shall be no order as to costs.

12. Miscellaneous Petitions pending, if any, in this writ petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date: 15.07.2015
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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Dated: 15.07.2015

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