

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

MONDAY THE TWENTYFIRST DAY OF DECEMBER
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO.18571 OF 2006

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Between:

Kosuri Venkata Rao & Anr. ... Petitioners

Vs.

The Principal Secretary to Govt. of AP

Tribal Welfare, Secretariat,

Hyderabad & Ors. Respondents

Counsel for the Petitioners: Sri Naram Nageswar Rao

Counsel for the Respondents: GP for Social Welfare

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE A.V. SETHA SAI

WRIT PETITION NO.18571 OF 2006

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O R D E R :

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This writ petition, filed under Article 226 of the Constitution of India, challenges the orders of the Government issued vide GO.Ms.No. 28 Social Welfare [LTR-I] Department, dated 16/5/2006.

2. Heard Sri Naram Nageswar Rao, learned counsel for the petitioners and the learned Government Pleader for Social Welfare apart from perusing the material available on record.

3. The Special Deputy Collector, K.R. Puram, third respondent herein pressed into service the provisions of Land Transfer Regulations and passed an order, ordering

ejection of the petitioners from the lands admeasuring Ac:0-50, Ac:2-40 and Ac:2-27 situate in survey Nos. 30/2, 32 and 33/1 respectively of Jainavarigudem village of Buttaigudem Mandal, West Godavari district. Aggrieved by the said orders of ejection, the petitioners preferred appeal before the Agent to the Government-second respondent herein and the second respondent dismissed the said appeal, confirming the orders passed by the primary authority. Questioning the validity of the said orders passed by the Primary and Appellate Authorities, the petitioners herein filed a statutory Revision before the State Government and the Government of Andhra Pradesh-first respondent herein vide GO.Ms.No.28, Social Welfare [LTR-I] Department, dated 16/5/2006 remanded the matter to the Additional Agent to the Government, West Godavari for fresh consideration of the appeal. Calling in question the legal sustainability of the said orders passed by the Government, remanding the matter to the Appellate Authority, the present writ petition came to be filed.

4. This Court, while ordering Rule Nisi, granted orders of statusquo on 08/9/2006 in WPMP.No.23348 of 2006.

5. It is contended by the learned counsel for the petitioners herein that the very remand order passed by the Revisional Authority is unsustainable, illegal, arbitrary and beyond the jurisdiction of the first respondent. It is also the case of the petitioner in the writ affidavit that there is a threat of dispossession from the fifth respondent-Mandal Revenue Officer, Buttaigudem.

6. On the other hand, it is vehemently contended by the learned Government

Pleader that there is no illegality nor there is any infirmity in the impugned order passed by the State Government and in the absence of the same, the present writ petition is not maintainable and the petitioners are not entitled for any relief under Article 226 of the Constitution of India.

7. A perusal of the order passed by the State Government-Revisional Authority, in clear and unequivocal terms, discloses that only after considering the entire material available on record in a meticulous manner the State Government remanded the matter to the Appellate Authority-second respondent for consideration afresh. It is a settled and well-established proposition of law that a writ in the nature of Certiorari cannot be issued unless the person, complaining against the impugned action, establishes perversity in the impugned order. In the instant case, such factor is conspicuously absent. In the absence of the same, this Court is not inclined to interfere with the order passed by the Revisional Authority.

8. Accordingly, the writ petition is dismissed, confirming the orders passed by the first respondent-Revisional Authority vide G.O.Ms.No. 28, Social Welfare [LTR-I] Department, dated 16/5/2006. However, the second respondent-Agent to Government shall decide the issue after giving notice and opportunity of hearing the writ petitioners. Till then the orders of statusquo granted by this Court on 08/9/2006 in WPMP.No.23348 of 2006 shall continue. No costs.

9. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE A.V.SESHA SAI

21/12/2015

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HONOURABLE SRI JUSTICE A.V. SETHA SAI

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