

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

TUESDAY, THE SEVENTH DAY OF APRIL TWO THOUSAND AND FIFTEEN

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.13303 of 2005

Between:

Meda Bushaiah,

S/o. Narsaiah,

Aged 60 years, Occ: Agriculture,

R/o. Aswapuram (V&M),

Khammam District.

.. Petitioner

AND

The Special Dy. Collector (Tribal Welfare),

Bhadrachalam,

Khammam District & 6 others

.. Respondents

The Court made the following:

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ORDER:

According to the petitioner, he owns land to an extent of Ac. 6.04 guntas in Survey No.392, situated at Aswapuram Village and Mandal, Khammam District. The land was purchased by father of the petitioner on 25.05.1957. On a complaint filed by the third respondent in the writ petition, on

23.01.1973 eviction was ordered in LTR Case No.519 of 1972 by the Special Deputy Collector (Tribal Welfare), Bhadrachalam, Khammam District (1st respondent). He held that sale and possession is void in view of the Andhra Pradesh (Scheduled Areas) Land Transfer Regulation, 1959, read with Act 1 of 1970. Aggrieved thereby, the petitioner preferred an appeal to the Government in C.M.A.No.29 of 1973. By order, dated 05.07.1975, appeal filed by the petitioner was allowed and the matter was remanded to the Special Deputy Collector (Tribal Welfare), Bhadrachalam, Khammam District (1st respondent), for consideration afresh. The appeal was allowed on the ground that no opportunity of hearing was afforded to the petitioner before passing the orders of eviction. On remand, on 06.12.1976 the Special Deputy Collector passed orders rejecting the petition for eviction of petitioner.

2. While so, serious efforts are being made to evict the petitioner again at the instance of the family of the third respondent compelling the petitioner to invoke the jurisdiction of this Court. The petitioner sought for prayer in this writ petition to declare the action of respondents 1 and 2 in trying to dispossess the petitioner from the land above mentioned without following the due process of law and the same would be arbitrary without jurisdiction and violative of principles of natural justice. At the time of admission, in W.P.M.P.No.16878 of 2005 this Court directed not to dispossess the petitioner, pending disposal of the writ petition. By order, dated 18.06.2008, the W.V.M.P.No.2116 of 2005 was dismissed making the interim order earlier granted absolute.

3. Learned counsel for the petitioner submits that as a consequence to the order passed by the Special Deputy Collector (Tribal Welfare), Bhadrachalam, Khammam District (1st respondent) on 06.12.1976, the petitioner is in possession and enjoyment, but without following the due process of law, at the instance of the third respondent, the petitioner is sought to be evicted once again and in such an event, grave prejudice would be caused to the petitioner.

4. On instructions, the learned Assistant Government Pleader submits that as per the records, the petitioner is in possession and enjoyment of the property.

Recently, the family of the third respondent filed a complaint to the Mandal Revenue Officer, Aswapuram Mandal, Aswapuram, Khammam District (2nd respondent) praying to restore possession of the subject property and on such a complaint, a notice was issued to the petitioner by the Mandal Revenue Officer on 18.06.2014. In reply, the petitioner stated that this writ petition is pending consideration of this Court and the matter stands at that stage.

5. In view of the statement made by the learned Assistant Government Pleader, on instructions, as the petitioner is in possession and enjoyment and so far, no coercive steps are taken against the petitioner, without following the due process of law and in view of the interim orders already granted by this Court, there is no necessity to pass further orders in the writ petition, except holding that if the respondent authorities intend to take any action against the petitioner regarding the ownership and possession of the property in issue, the respondent authorities shall follow due process of law and only after putting the petitioner on notice and affording an opportunity of hearing, appropriate orders, as warranted by law, shall be passed. Until a decision is taken, in accordance with law, the petitioner shall not be disturbed from the possession and enjoyment of the subject property.

6. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 7th April, 2015

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WRIT PETITION No.13303 of 2005

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