

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

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WRIT PETITION No.31879 OF 2015

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ORDER:

This writ petition is filed under Article 226 of the Constitution of India for 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 respondent authorities especially Respondent No.4 in not adjudicating the CMP and CMA filed against the Order by The Rampachodavaram Agency Divisional Officer (ADO) in ADO LT RP No.13/2010 on 27-06-2015 at least for grating granting any Interim Orders even after making petitions 03-08-2015 and 17-08-2015 is illegal and unconstitutional and direct the respondent no.3 to grant Interim Order against the Order by The Rampachodavaram Agency Divisional Officer (ADO) in ADO LT RP No.13/2010 on 27-06-2015 and pass such further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case

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2. Heard Sri K.S.Murthy, learned counsel appearing for the petitioner and learned Government Pleader for Social Welfare appearing for the respondents.

3. The petitioners herein filed a complaint, under the provisions of Section 3(1) of Andhra Pradesh Scheduled Area Land Transfer Rules, 1969, as amended by regulation No.1 of 1970, seeking restitution of the subject lands admeasuring Acres 2.21 cents and Acres 3.12 cents in Survey No.97 and Acres 0.89 cents in Survey No.103/3 situated in K.Errampalem Village, Rampachodavaram Mandal, East Godavari District, Andhra Pradesh, before the 4th respondent herein – Agency Divisional Officer. The 4th respondent by way of an order dated 27.06.2015 in ADO LTR No.13/2010, disallowed the said complaint. Aggrieved by the said order passed by the 4th respondent, petitioner herein filed appeal under Rule 8(2) of the Andhra Pradesh Scheduled Area Land Transfer Rules, 1969, before the Additional Agent to

Government – 3rd respondent herein on 03.08.2015. Along with the said appeal, petitioner herein also filed an application seeking stay of operation of the order passed by the 4th respondent. The grievance of the petitioners in the present writ petition is that even though they filed appeal as long as on 03.08.2015 and also the stay application on the even date, no orders have been passed by the Appellate Authority – 3rd respondent herein and in view of the said inaction, further constructions are being undertaken in the scheduled lands and the same would cause prejudice to the petitioner herein.

4. Per contra, it is the submission of the learned Government Pleader that having filed a statutory appeal before the 3rd respondent, the petitioner herein ought to have approached the Appellate Authority for necessary orders and the present writ petition is not maintainable under Article 226 of the Constitution of India.

5. The material available before this court manifestly discloses that as against the orders passed by the 4th respondent – Agency Divisional Officer, dismissing the complaint filed by the petitioners herein, the petitioners preferred an appeal before the 3rd respondent – Additional Agent to Government. There is no dispute with regard to the fact that along with the said appeal, petitioners herein also filed an application, seeking stay of orders passed by the 4th respondent.

6. According to the learned counsel for the petitioner, no orders have been passed either on the appeal or on the stay application filed by the petitioner herein and in view of absence of any orders, constructions are being undertaken in the scheduled lands. It is also brought to the notice of this court that after filing the statutory appeal before the 3rd respondent, the 1st petitioner herein submitted a representation on 17.08.2015 requesting to pass interim orders in the appeal filed on 03.08.2015.

7. Taking into consideration the totality of the circumstances and having regard to the nature of controversy, this court is of the considered opinion that interest of justice would be met, if the 3rd respondent – Appellate Authority is directed to dispose of the appeal by fixing some time frame.

8. For the aforesaid reasons, writ petition is disposed of, directing the 3rd respondent – Additional Agent to Government to pass appropriate orders on the appeal dated 03.08.2015 filed by the petitioner herein against the orders passed by the Agency

Divisional Officer – 4th respondent herein in ADO LTR No.13/2010, dated 27.06.2015, within a period of three months from the date of receipt of copy of this order. Till such exercise attains finality, status quo as on today with regard to the subject land shall be maintained.

9. 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

30th September, 2015

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