

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

W.P.No.622 of 2008

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the Appeal Proceedings No.ITDA/LTRA/20/97, dated 07.05.2005, of the first respondent/Additional Agent to Government and Project Officer, ITDA, Utnoor, Adilabad District.

2. By the said proceedings dated 07.05.2005, the first respondent herein, confirmed the orders dated 11.06.1997 passed by the second respondent/Special Deputy Collector (T.W) Adilabad District vide Case No.TWA2/729/96.

3. Heard Sri Nazeer Khan, learned counsel for the petitioners and the learned Government Pleader for Revenue (Telangana) for the respondents.

4. On the basis of the report submitted by the Mandal Revenue Officer, the Special Deputy Collector, Tribal Welfare, Adilabad/second respondent herein pressed into service the provisions of the Land Transfer Regulations and passed an order, ordering ejectment of the fourth respondent herein from the land admeasuring Ac.3-00 situated at Takli Village of Bela Mandal, Adilabad District. As against the said orders passed by the second respondent, petitioners herein preferred an appeal under the regulations before the first respondent/Additional Agent to Government and the first respondent Additional Agent to Government by way of an order bearing Proceedings No.ITDA/LTRA/20/97, dated 07.05.2005, dismissed the said appeal confirming the order passed by the primary authority. Calling in question, the validity and the legal sustainability of the said orders passed by the appellate and primary authorities, the present writ petition came to be filed.

5. This Court, while ordering *Rule Nisi* on 21.01.2008 in WPMP.No.710 of 2008 granted interim stay of assignment of petition schedule land to third party and the said interim order is still subsisting.

5. Despite service of notice, no counter affidavit has been filed by the respondents.

6. It is contended by the learned counsel for the petitioners that the orders passed by the appellate and primary authorities are highly illegal, arbitrary, unreasonable and violative of Articles 14 and 300-A of the Constitution of India. It is also the submission of the learned counsel for the petitioners that without proper notice, the second respondent herein passed the impugned order dated 11.06.1997. It is the further contention that the first respondent/Additional Agent to Government without proper appreciation of the contentions raised on behalf of the petitioners, passed the impugned order, confirming the orders passed by the primary authority.

7. On the contrary, it is vehemently contended by the learned Government Pleader that the present writ petition is not maintainable before this Court in view of availability of alternative remedy of revision under Section 6 of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 (Regulation I of 1959) and the petitioners herein are not entitled for any relief from this Court. It is the further submission of the learned Government Pleader that since the primary and appellate authorities assigned cogent and convincing reasons, the petitioners herein are not entitled for any relief from this Court under Article 226 of the Constitution of India.

8. The material available before this Court manifestly discloses that as against the order of ejectment passed by the primary authority on 11.06.2005, the petitioners herein preferred statutory appeal before the first respondent/Additional Agent to Government, which also ended in dismissal confirming the orders passed by the primary authority. The preliminary objection taken by the learned Government Pleader is with

regard to the maintainability of the writ petition in view of availability of alternative remedy of revision before the State Government under Section 6 of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 (Regulation I of 1959). Section 6 of the said Regulations reads as under:

“The State Government may revise any decree or order passed by the Agent.. The Agency Divisional Officer or any other prescribed officer under this Regulation; Provided that this power shall be exercised only after due notice to the parties affected by the decree or order and after giving them a reasonable opportunity of being heard.”

9. As per the above provision of law, as against any order passed by the Agent to the Government, revision lies to the Government and in view of the said alternative and efficacious remedy of revision available to the petitioners herein, this Court is inclined to relegate the petitioners herein to the said alternative remedy. Since this Court granted interim order as long back as on 31.01.2008, this Court is of the considered opinion that the ends of justice would be met if the said order is continued till the disposal of the revision by the revisional authority under the above said provision of law.

10. For the aforesaid reasons, writ petition is disposed of, keeping it open for the petitioners herein to file statutory revision under Section 6 of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 (Regulation I of 1959)., within a period of two months from the date of receipt of a copy of this order against the orders impugned in the present writ petition. If any such revision is filed within the time stipulated, the authorities to consider and pass appropriate orders in accordance with law, within a period of three months thereafter, after giving notice and opportunity of being heard to all the stake holders including the petitioners. If no such appeal is filed within the time stipulated, it is open for the respondents herein to proceed in accordance with law. Till the said exercise attains finality, the interim order dated 21.01.2008 granted by this Court in WPMP.No.710 of 2008 shall continue. As a sequel, the miscellaneous petitions, if any, shall

stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:29.12.2015
grk

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

W.P.No.622 of 2008

Dated: 29th December, 2015

grk