

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

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WRIT PETITION No.34846 OF 2012

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ORDER:

The challenge in the present Writ Petition is to the order passed by Special Deputy Collector (Tribal Welfare), Bhadrachalam- 1st respondent herein in Case No.110/2012/KGM, dated 14.08.2012.

2. Heard Sri M.K.Raj Kumar, learned counsel, appearing for the petitioners, Learned Government Pleader for Social Welfare, appearing for the respondents 1 to 3 and Sri K.Ravi Mahender, learned counsel, appearing for the 4th respondent, apart from perusing the material available on record.

3. With the consent expressed by the learned counsel, this Court deems it appropriate to dispose of the Writ Petition at this Stage.

4. The Special Deputy Collector (Tribal Welfare), Bhadrachalam- 1st respondent herein pressed into service the Land Transfer Regulations and passed the impugned order in Case No.110/2012/KGM, dated 14.08.2012, ordering eviction of the respondents therein from the lands admeasuring Acres 18.00 Guntas situated in Survey Nos.137/1, 137/3, 137/4, 137/5, 137/6, 137/7, 137/8 and 137/9 of Chenchupalli Village, Kothagudem Mandal, Khammam District.

5. Challenging the validity and the legal sustainability of the said order, the present Writ Petition came to be filed. This Court while ordering 'Rule nisi' on 09.11.2012 passed the following interim order in W.P.M.P.No.44295 of 2012:

"The petitioners were not made as parties in Case No.110/2012/KGM filed before respondent No.1. They submit that respondent No.3 is trying to evict them on the basis of the orders passed therein.

Hence, there shall be interim stay, as prayed for."

6. In response to the 'Rule Nisi', counter affidavits have been filed by the

respondents, denying the averments in the affidavit filed in support of the writ petition and in the direction of justifying the impugned action.

7. It is submitted by the learned counsel for the petitioners that the questioned order is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India besides being opposed to the very spirit and object of the provisions of the Land Transfer Regulations. It is also submitted by the learned counsel that the impugned action is in total violation of the principles of natural justice and no notice was given to the petitioners herein before passing the impugned orders.

8. On the contrary, it is contended by the learned Government Pleader so also learned counsel for the 4th respondent that present Writ Petition is not maintainable, in view of the availability of the alternative remedy of appeal to the Agent to the Government. It is also submitted that the contention that no notice was given is also incorrect and contrary to the record. It is the further submission of learned counsel for the respondents that there are absolutely no merits in the case of the petitioners herein.

9. The order under challenge in the present writ petition is an order passed by the Special Deputy Collector (Tribal Welfare), Bhadrachalam – 1st respondent herein. As rightly pointed out by the learned Government Pleader and learned counsel for the

4th respondent, the said order passed by the 1st respondent is appellable to the Agent to the Government and without availing the said efficacious and alternative remedy of Appeal, the present writ petition has been filed by the petitioners.

10. In view of the availability of the said alternative remedy of Statutory Appeal, this Court is not inclined to go into the other merits of the matter. For the aforesaid reasons, without expressing any opinion on the merits of the matter, Writ Petition stands disposed of, keeping it open to the petitioners herein to file Statutory Appeal before the Agent to the Government, within a period of the one month from the date of receipt of a copy of this order and if any such appeal is filed within the time stipulated, the same be considered and appropriate orders be passed within two months thereafter, in accordance with law, after giving notice and opportunity of being heard to all the stake holders. *Status-quo* as on today with regard to the subject property shall be maintained for a period of two months from today. It is also made clear that if no such appeal is filed within the stipulated time, the order

impugned in the present writ petition can be implemented and it is open for the respondents herein to take necessary steps, in accordance with law.

11. 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

02nd December, 2015

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