

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

WRIT PETITION No.29515 OF 2015

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 in the nature of Mandamus declaring action of the respondents in seeking to evict the petitioner from her land situated in Sy.No.15/5 an extent of Ac 2.56 cents situated in Mothugudem Village of Chintoor Mandal of East Godavari District in pursuance of the orders passed by the Agency Divisional Officer & Sub-Collector, Bhadrachalam in LTR Case No. A/9-518/2013 dated 16.7.2013 pending disposal of the appeal filed before the 1st respondent as arbitrary, illegal and violative of Article 14, 21 and 300(A) of the Constitution of India and consequentially declare that the Respondents cannot dispossess the Petitioner from the property in question pending disposal of the Appeal before the Appellate Authority and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case.”

2. Heard Sri K.Sarath, learned counsel for the petitioner and learned Government Pleader for Social Welfare for the respondents. 3.

The Agency Divisional Officer & Sub-Collector, Bhadrachalam, vide order dated 16.07.2013 directed ejectment of the petitioner herein from the land admeasuring Acres 2.56 cents situated in Sy.No.15/5 of Mothugudem Village of Chintoor Mandal, erstwhile Khammam District and presently in East Godavari District. Questioning the said order, the petitioner herein filed an appeal on 13.09.2013 before the Additional Agent to the Government – 1st respondent herein. Along with the said appeal, petitioner herein also filed stay application on the even date. It is the case of the petitioner herein that Mothugudem Village, which was earlier in Khammam District, is now merged in Rampachodavaram Revenue Division of East Godavari District, in

view of Andhra Pradesh Reorganisation (Amendment) Act, 2014. It is further stated that, in view of the same, the first respondent herein now ceased to have any power to hear the said appeal and the said appeal is required to be transferred to Rampachodavaram Division, but as on today, no intimation is received by the petitioner herein about the transfer of the said appeal to East Godavari District of Andhra Pradesh.

4. It is further submitted by the learned counsel for the petitioner that taking advantage of the said situation, the Tahasildar - 2nd respondent herein is making hectic efforts to dispossess the petitioner herein from the subject property.

5. On the contrary, it is submitted by the learned Government Pleader that there is no illegality on the part of the respondents herein, as such, the present writ petition is not maintainable and petitioner herein is not entitled for any relief from this court under Article 226 of the Constitution of India.

6. The information available before this court manifestly discloses that as against the orders passed by the Agency Divisional Officer and Sub-Collector, Bhadrachalam, ordering ejectment of the petitioner herein, petitioner herein filed a statutory appeal before the 1st respondent – Additional Agent to Government. Along with the said appeal, petitioner herein also filed a stay application and the said appeal and the stay application are pending consideration.

7. It is the grievance of the petitioner herein in the present writ petition that in view of the bifurcation of the State by virtue of Andhra Pradesh State Reorganisation (Amendment) Act, 2014, the 1st respondent herein ceased to have the power to entertain the appeal, as the subject village is merged in East Godavari District of Andhra Pradesh. It is the further grievance of the petitioner that in view of the said reason and as the papers pertaining to the appeal have not been transferred so far to the appropriate authority in East Godavari District, the petitioner herein is not in a position to pursue the appeal and

taking advantage of the same, the Tahasildar – 2nd respondent herein, is making hectic efforts to dispossess the petitioner herein from the schedule property.

8. Taking into consideration the totality of the circumstances, this court is of the considered opinion that the interest of justice would be met, if a direction is given to the 1st respondent herein, to transmit the appeal filed by the petitioner herein to the appropriate Appellate Authority in the Andhra Pradesh State. Thereafter, it is open for the appropriate Appellate Authority in Andhra Pradesh State to take appropriate action on the appeal filed by the petitioner herein.

9. For the aforesaid reasons, writ petition is disposed of, directing the 1st respondent herein to transmit the file pertaining to the appeal filed by the petitioner herein, against the order of ejectment passed by the Additional Agent to the Government, Bhadrachalam, vide Case No.A/9-518/2013, dated 16.07.2013 pertaining to the land admeasuring Acres 2.56 cents, situated in Survey No.15/5, Mothugudem Village of Chintoor Mandal, for disposal by the appropriate authority in East Godavari District of Andhra Pradesh. Pending such exercise and pending passing of orders by the appropriate appellate authority, after transfer, status-quo as on today with regard to the subject property shall be maintained.

10. 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

10th September, 2015

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