

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

TUESDAY THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 24790 OF 2007

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Between:

Lingampalli Balabbai & Anr. ... Petitioners

Vs.

The Spl.Dy.Collector, Tribal Welfare,
Rampachodavaram,
East Godavari district & Ors. ... Respondents

Counsel for the Petitioners: Sri K. Venkatesh

Counsel for the Respondents: GP for Social Welfare

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 24790 OF 2007

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ORDER :

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In the present writ petition challenge is to the order passed by the first respondent
Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari district
in LTRP.No. 48/2005, dated 03/8/2007.

2. Heard Sri K.Venkatesh, learned counsel for petitioner and learned Government

Pleader for Social Welfare apart from perusing the material available on record.

Despite service of notice, none appears for third respondent.

3. It is pleaded in the affidavit filed in support of the petition that the first petitioner is the owner and possessor of the land, admeasuring Ac:1-78 situated in survey No.171/9 and the second petitioner is the owner and possessor of Ac:3-36 cents in survey No.1717/8 and Ac:3-90 cents in survey No.149/3 of Penikalapadu village hamlet of Manturu, Devipatnam Mandal, East Godavari district. It is the further case of the petitioners that the Settlement Officer granted ryotwari patta in favour of the mother of the first petitioner, who is no more and second petitioner and his brother. It is also stated that the petitioners are in possession and enjoyment of the said properties. On the complaint of third respondent, the first respondent herein pressed into service the provisions of A.P.Scheduled Areas Land Transfer Regulations, 1959 and issued a notice dated 23/3/2005 in LTRP.No.48 of 2005 with regard to the lands in survey Nos. 431 and 437 of Agraharam village, Devipatnam Mandal, East Godavari district. It is also the case of the petitioners herein, as submitted by the learned counsel for the petitioners, that the petitioners herein attended before the first respondent on 31/10/2006 and categorically stated that they are not in possession of the petition schedule lands are not concerned with the petition schedule lands. The first respondent Special Deputy Collector thereafter passed an order in LTRP.No.48 of 2005 dated 3/8/2007, ordering ejectment of the petitioners herein from the lands in survey Nos.431 and 437 of Penikelapadu hamlet of Manturu, Devipatnam Mandal. The said order of ejectment passed by the first respondent Special Deputy Collector under section 3 (2) (a) of AP Scheduled Area

Land Transfer Regulation 1/1959 is assailed in the present writ petition.

4. It is the submission of the learned counsel for the petitioners herein that having issued notice of enquiry for the lands located in Agraharam village, Devipatnam Mandal, East Godavari district and having taken note of the statements of the petitioners that they are not in possession of the lands in Agraharam village, the first respondent grossly erred in ordering ejectment of the petitioners from the lands in Penikelapadu village. Even though the counter-affidavit filed by the Special Deputy Collector tries to justify the impugned action by stating that the survey numbers were amended later no information is forthcoming as to whether the same was done after issuing due notice to the petitioners or not. Having issued notice for the lands located at Agraharam, in the considered opinion of this court, the first respondent herein grossly erred in passing the impugned order with regard to the lands located at Penikelapadu village. Therefore, this court finds sufficient force in the contentions of the learned counsel for the petitioners and inclined to remit the matter to the first respondent for fresh consideration in accordance with law after giving notice and opportunity of being heard to the petitioners.

5. For the aforesaid reasons, the writ petition is allowed, setting aside the impugned order in LTRP.No. 48 of 2005, dated 03/8/2007 passed by the first respondent and the matter is remitted to the first respondent for fresh consideration after giving notice to all the stake holders within a period of three months from the date of receipt of a copy of this order and till then the interim order passed by this Court in WPMP.No. 32291 of 2007 dated 22/11/2007 shall continue. No costs.

6. As a sequel, miscellaneous petitions if any, pending in this writ petition

shall stand closed.

JUSTICE A.V.SESHA SAI

22/12/2015

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HONOURABLE SRI JUSTICE A.V. SESA SAI

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