

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. 7318 OF 2006

Between:

Vipparla Annapurna ... Petitioner

Vs.

The Spl.Dy.Collector, Tribal Welfare,
K.R Puram, West Godavari & Ors. ... Respondents

Counsel for the Petitioner: Sri Satyanarayana Nimmagadda

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. 7318 OF 2006

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ORDER:

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This writ petition, filed under Article 226 of the Constitution of India, challenges the order dated 20/12/2005 passed by the Special Deputy Collector, Tribal Welfare, K.R. Puram first respondent herein in SR.No.71/2004.

2. Heard Sri Nimmagadda Satyanarayana, learned counsel for the petitioner and the learned Government Pleader for Social Welfare for the respondents 1 and 2. Despite service of notice, none appears for the fourth respondent.

3. Earlier on the complaint made by the Special Deputy Tahsildar, Tribal Welfare, K.R.Puram, the Special Deputy Collector, first respondent herein, pressed into service the provisions of the AP Land Transfer Regulations with regard to the property in three survey numbers; namely, survey Nos. 329/6, 329/8 and 332 of Dippakayalapadu village H/o koyarajahmundry, Buttaigudem Mandal, West Godavari district. The Special Deputy Collector, passed an order on 29/9/1992 in SR.No.866 of 1990, disallowing the claim of the Special Deputy Tahsildar. The said order, according to the learned counsel, became final.

4. While the matter stood thus, on the complaint of the fourth respondent herein, the Special Deputy Collector first respondent once again passed an order on 20/12/2005 in SR.No.71/2/2004, ordering ejectment of the petitioner from the land in survey No.332 of Koyarajahmundry of Buttaigudem Mandal, West Godavari district. Calling in question, the validity and legal sustainability of the said orders passed by the first respondent, the present writ petition came to be filed.

5. This court initially on 13/4/2006 granted statusquo order and subsequently while ordering Rule Nisi on 22/6/2006 the said interim order was extended until further orders in WPMP.No.9407 of 2006. In response to the Rule Nisi issued by this court, the third respondent Mandal Revenue Officer filed a counter affidavit, denying the averments made in the affidavit filed in support of the petition and justifying the impugned action.

6. It is contended by the learned counsel for the petitioner that the order passed by the first respondent, which is impugned in the present writ petition is highly illegal, arbitrary, unreasonable, violative of Articles 14 and 300-A of the Constitution of India. It is the further submission of the learned counsel for the petitioner that the first respondent herein without issuing any notice and without affording any

opportunity of being heard to the petitioner passed the impugned order of ejectment and the said action on the part of first respondent is in total violation of the principles of natural justice.

7. On the contrary, it is vehemently contended by the learned Government Pleader that there is neither illegality nor any procedural infirmity in the impugned action, as such, the present writ petition is not maintainable and the petitioner is not entitled for any relief under Article 226 of the Constitution of India. It is further submitted that only after duly issuing notice to the petitioner herein, the first respondent passed the impugned order. It is further submitted that in view of availability of alternative remedy of appeal to the Agent to the Government, the petitioner cannot maintain writ petition under Article 226 of the Constitution of India.

8. The material available before this court manifestly discloses that earlier on 29/9/1992 the Special Deputy Collector, disallowed the claim of the Special Deputy Tahsildar in SR.No.866 of 1990. After a lapse of approximately one and half decades once again the Special Deputy Collector, the first respondent initiated proceedings on the complaint said to have been made by the fourth respondent. The principal grievance of the petitioner in the present writ petition is that without issuing any notice and without giving any opportunity of being heard to the petitioner the first respondent, in a arbitrary manner

passed the impugned order.

8. On the other hand, it is the case of the respondents that only after giving notice to the petitioner, the first respondent passed the impugned order as such the petitioner herein cannot complain violation of the principles of natural justice. A perusal of the cause title of the order impugned, in clear and unequivocal terms, discloses that the address of the petitioner herein was shown as Nuthiramannapalem village, Buttaigudem Mandal, West Godavari district but in the urgent notice bearing Rc.No.111/2008 [Dy.MRO] dated 10/4/2008 the address was shown as Dippakayalapadu. In the earlier order passed in the year 1992 also the address was shown as Dippakayalapadu only but not Nuthiramannapalem (v). Therefore, in the considered opinion of this court, the action of the first respondent in passing the impugned order, without serving notice on the petitioner, is a clear violation of the principles of natural justice. The same alone render the impugned proceedings invalid and the contention of the learned Government Pleader with regard to non-maintainability of writ petition in view of alternative remedy of appeal to the Agent to the Government cannot be sustained, as the first respondent passed the impugned order in total violation of the principles of natural justice.

9. For the aforesaid reasons, the writ petition is allowed, setting

aside the impugned order passed by the first respondent in SR.No.71/2/2004 dated 20/12/2005 and the matter is remanded back to the first respondent for fresh consideration in accordance with law after giving notice and opportunity of being heard to the petitioner herein. Till this exercise attains finality the interim order of statusquo granted by this court on 13/4/2006 shall continue. No costs.

10. 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. SETHA SAI

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