

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

TUESDAY THE TWENTYNINETH DAY OF DECEMBER
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 2133 OF 2008

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Between:

Kampati Babu ... Petitioner

Vs.

The Addl. Agent to Government,
Bhadrachalam,
Khammam district & Ors. ... Respondents

Counsel for the Petitioner: Sri K. Sitaram

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. 2133 OF 2008

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ORDER :

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This writ petition is filed under Article 226 of the Constitution

for the following relief:

“To declare the proceedings of the first respondent in CMA.No. 31 of 2005, dated 28/7/2007 confirming the order in LTR.Case No. 715/2000/ENK dated 24/1/2005 of the second respondent as illegal, void and consequently to set aside the same and to pass such other suitable orders as may be just and necessary.”

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

3. According to the petitioner, One Sri Adapa Pitchaiah was the pattedar of an extent of Ac:2-00 situated in survey No.348/AA of Thuthakalingannapeta village, Enkur Mandal, Khammam district and the said Pitchaiah sold the said land to the father of the petitioner by way of sada sale deed on 02/6/196j0 and the Revenue Authorities also entered the name of the petitioner's father in the revenue records and after his death in the year 1999, the petitioner herein claims to have come into possession of the property and his name also finds place in the revenue records for the years 2004-05. The second respondent pressed into service the provisions of Land Transfer

Regulations and passed an order dated 24/1/2005 in LTR Case No.715/2000/ENK, ordering ejectment of the petitioner from the above said land. Aggrieved by the said order passed by the Special Deputy Collector, the petitioner herein preferred statutory appeal, vide CMA.No. 31 of 2005 on the file of the first respondent Additional Agent to the Government. The first respondent herein, by virtue of an order dated 28/7/2007 dismissed the said appeal. Calling in question, the validity and legal sustainability of the said orders passed by the Appellate and Primary Authorities, the present writ petition came to be instituted.

4. This Court, while ordering Rule Nisi on 07/2/2008 granted interim stay of all further proceedings pursuant to the impugned orders in WPMP.No. 2736 of 2008 and the said orders are still subsisting. No counter-affidavit has been filed by the respondents, denying the averments made in the writ affidavit filed in support of the petition and in the direction of justifying the impugned action.

5. It is contended by the learned counsel for the petitioner that the orders passed by the first and second respondent herein are illegal, arbitrary, unreasonable and violative of Articles 14, 21 and 300-A of the Constitution of India besides being opposed to the very spirit and object of the provisions of Land Transfer Regulations. It is further submitted by the learned counsel for the petitioner that the

respondents 1 and 2 did not properly appreciate the evidence available on record and passed the impugned orders without assigning any reason.

6. On the contrary, it is vehemently contended by the learned Government Pleader for Social Welfare for the respondents that there is no illegality nor there is 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 from this Court under Article 226 of the Constitution of India. It is also the submission of the learned Government Pleader that the present writ petition is not maintainable in view of availability of alternative remedy of Revision to the State Government under the provisions of section 6 of the Land Transfer Regulations.

7. The material available on record manifestly discloses that the petitioner herein filed statutory appeal before the first respondent, as against the orders passed by the second respondent and the first respondent dismissed the said appeal, confirming the orders passed by the second respondent.

8. As rightly pointed out by the learned Government Pleader that as against any order passed by the Agent to the Government, Revision lies to the State Government under section 6 of the Land Transfer

Regulations, which reads as under:

REVISION :

The State Government may revise any decree of order passed by the Agent, the Agency Divisional Officer or any other prescribed order under this Regulation;

Provided that this power shall be exercised only after due notice to the parties affected by the decree of order and after giving them a reasonable opportunity of being heard.

9. In view of availability of efficacious and alternative remedy of Revision to the petitioner herein under the provisions of Land Transfer Regulations, this Court deems it apt to relegate the petitioner to the said alternative remedy of Revision. Since this court admitted the writ petition and passed the interim order as long back as on 07/2/2008, this court deems it appropriate to continue the interim orders passed in WPMP.No. 2736 of 2008 till the disposal of the said Revision.

10. For the aforesaid reasons, this writ petition is disposed of, permitting the petitioner herein to file statutory Revision against the impugned orders before the State Government, within a period of two months from the date of receipt of a copy of this order. If any such Revision is filed, the same may be considered and appropriate orders be passed in accordance with law, after giving notice and opportunity of hearing to the petitioner herein. It is also made clear that till such exercise attains finality, the interim orders granted by this court in

WPMP.No. 2736 of 2008 dated 07/2/2008, shall continue. No costs.

9. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE A.V.SESHA SAI

29/12/2015
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HONOURABLE SRI JUSTICE A.V. SETHA SAI

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WRIT PETITION NO. 2133 OF 2008

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