

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.24796 OF 2007

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Between:

Ajmeera Raghavulu & Anr. ... Petitioners

Vs.

The Agency Divisional Officer,
[Spl.Deputy Collector Tribal Welfare]

Kothagudem, Khammam district & Anr. ... Respondents

Counsel for the Petitioner: Sri Palivela Satyaraja Babu

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.24796 OF 2007

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ORDER:

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This writ petition, filed under Article 226 of the Constitution of India, challenges the order passed by the Agency Divisional Officer, Kothagudem vide LTR Case No.317/97/CHG dated 29/5/2007.

2. Heard Sri Palivela Satyaraja Babu, learned counsel for the petitioner and the learned Government Pleader for Social Welfare.

3. It is pleaded in the affidavit filed in support of the petition that the petitioners 1 and 2 purchased the dry agricultural land admeasuring Ac:2-00 and Ac:0-20 guntas situated in survey No.124 of Tungaram village, Chandrugonda Mandal, Khammam district by way of registered sale deed bearing document No.1130, dated 30/8/1977 from a non-tribal, Sri Narumalla Seethaiah son of N. Munaiah. It is further pleaded that the petitioner belong to schedule tribe community and the above said purchase made by them is a valid one and not effected by the provisions of the A.P. Scheduled Areas Land Transfer Regulations. The Agency Divisional Officer, Kothagudem, Khammam district, first respondent herein passed an order of ejectment vide LTR.Case No.317/97/CHG.

4. The grievance of the petitioners in the present writ petition, as contended by the learned counsel for the petitioners, is that even though the first petitioner herein purchased the property as long back as in the year 1977, the name of the vendor of the first petitioner is shown as one of the respondents in the impugned order but not the names of the petitioners. It is further submitted that without giving any notice and opportunity of being heard to the petitioners, the first respondent passed the impugned order of ejectment. The same is not disputed by the respondents by filing counter and in the absence of counter the same needs to be taken as 'admitted'.

5. In view of the above, this court finds that the impugned order passed by the first respondent cannot be sustained in the eye of law. It is also the submission of the

learned Government Pleader that as against the orders passed by the first respondent there is a provision for preferring appeal to the Agent to the Government and it is open for the petitioners to avail alternative remedy of appeal.

7. Having regard to the nature of controversy, this court deems it appropriate to permit the petitioners herein to avail alternative remedy of appeal to the Agent to the Government.

8. For the aforesaid reasons, the writ petition is disposed of, permitting the petitioners herein to file an appeal against the impugned orders of Agency Divisional Officer, first respondent herein to the Agent to the Government within a period of three months from the date of receipt of a copy of this order. The interim order granted by this court on 22/11/2007 in WPMP.No. 32297 of 2007 shall continue to operate for a period of four months. No costs.

9. 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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