

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 29098 of 2015

ORDER:

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Heard learned counsel for the petitioner and learned Government Pleader for Revenue. With the consent of both the parties, the main writ petition is disposed of at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the impugned proceedings in Roc.A/210/2014 dated 18.11.2014 passed by the fourth respondent and the consequential order in D.Dis.G/4281/2014 dated 15.05.2015 passed by the third respondent and thereby resorting to evict the petitioner from the land admeasuring Ac.4.02 cents in Sy.No.90/3 of Gudimallam Village, Yerpedu Mandal, Chittoor District, as illegal, arbitrary, malafide and violative of Article 19 (1) (g) of the Constitution of India apart from violative of principles of natural justice; and consequently direct the respondents not to interfere with the possession and enjoyment of the petitioner over the said land in any manner.

A perusal of the averments in the affidavit filed in support of the writ petition would show that on 18.11.2014 the fourth respondent cancelled the DKT patta entries in the revenue records in respect of the land admeasuring Ac.4.02 cents in Sy.No.90/3 of Guddimallam Village, Yerpedu Mandal, Chittoor District vide Roc.A/210/2014 and consequently the third respondent passed an order in D.Dis.G/4281/2015 dated 15.05.2015 resorting to evict the petitioner from the land in subject. Aggrieved by the same the petitioner preferred a revision vide No.E4/6168/2015 dated 07.07.2015 before the Joint Collector, Chittoor and the same is pending. It is stated that though a stay application was filed along with the revision, no orders are passed. According to him, the very purpose of filing the revision will be defeated

if the stay is not granted.

In similar circumstances this Court in ***Rahmatullah Khan and another v. Government of Andhra Pradesh and others***^[1] held as under:

This Court has been constantly noticing that while passing eviction orders, the primary authorities (Tahsildars concerned) have not been granting reasonable time to the aggrieved parties for vacation of the premises and the appellate authorities are not passing orders on the interlocutory applications, filed seeking stay of interim orders. As a result of this lack of rational approach on the part of the primary as well as the appellate authorities, the legal remedies of appeal and revision are rendered otiose.

A fundamental feature of our legal system is right to avail further remedies wherever the extant statutory enactments provided for such remedies. Such a legal right cannot be scuttled by fixing arbitrary time limits for implementation of the orders, which are subject to further legal remedies at the option of the aggrieved parties. Respondent No.1 is therefore directed to issue a circular to the authorities under the Act to provide at least thirty days' time, which is stipulated as limitation for filing appeals for vacation of the properties covered by the eviction orders. The Circular shall further provide that the appellate authority shall pass an appropriate order on the stay application as expeditiously as possible and in any case not later than three days from the filing of the stay application. Respondent No.1 shall send a copy of the circular to the Registrar (Judicial) for being placed before this Court within one month from the date of receipt of this order.

Though various grounds are raised in the writ petition but however the learned counsel for the petitioner restricts his prayer seeking stay of the proceedings pending disposal of the revision before the Joint Collector, Chittoor.

Without going into the merits of the case and having regard to the circumstances stated above the writ petition is disposed of directing the second respondent to dispose of the revision filed by the petitioner

within twelve (12) weeks from the date of receipt of a copy of this order. Till disposal of the revision there shall be stay of the operation of the impugned order.

No order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

08.09.2015

Note: Issue C.C. by
day after tomorrow.

B/o
gkv

[\[1\]](#) 2014 (2) ALD 272