

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION NO.34882 OF 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“... to declare the proceedings of the 1st respondent in Memo No.6102/TW.LTR/2015-1, dated 29-09-2015 rejecting petitioner's request for grant of stay pending revision filed on 04-08-2015 filed against the order of the 2nd respondent, dated 07-03-2015 in CMA No.56 of 2011 reversing the order of the 3rd respondent in Case No.72/2008,MNGR, dated 04-06-2008 as illegal, arbitrary and consequently direct the 1st respondent to consider and dispose of the revision itself within a reasonable time and further direct the respondents or their subordinate staff not to dispossess the petitioners from their land in Sy.No.284 to an extent of Ac.0.15 gts. Situated at Manuguru village and Mandal of Khammam District..”

2. Heard Mr.M.V.Hanumantha Rao, learned counsel appearing for the petitioner and the learned Government Pleader for Social Welfare appearing for the official respondents. Perused the material available on record placed before the Court.

3. The Special Deputy Collector (T.W.) and Sub-Collector, Bhadrachalam-3rd respondent herein pressed into service the provisions of the Andhra Pradesh Scheduled Areas Land Transfer Regulation,1959 and passed an order, dated 04-06-2008 dropping further action in favour of the petitioner in respect of the land in Sy.No.284 to an extent of Ac.0.15 gts. situated at Manuguru village and Mandal of Khammam District. As against the said order passed by the 3rd respondent herein, the 4th respondent filed CMA No.56 of 2011 before the Additional Agent to the Government-2nd respondent herein. The 2nd respondent herein by virtue of order, dated 07-03-2015 allowed the said appeal setting aside the order of the primary authority. As against the said order, petitioner herein filed a revision petition before the 1st respondent herein-State Government on 04-08-2015. Along with the said revision, the petitioner herein filed interlocutory application for stay of dispossession from the schedule property. The 1st respondent-State Government by virtue of memo, dated

29-09-2015 rejected the stay application. Calling in question the legal sustainability of the said order passed by the 1st respondent, the present writ petition is filed.

4. Learned counsel appearing for the petitioner herein contended that the order passed by the 1st respondent vide memo, dated 29-09-2015 is neither sustainable nor tenable in the eye of law and it is, illegal, arbitrary and unreasonable and is violative of Articles 14 and 300-A of the Constitution of India besides being opposed to the principles of natural justice. It is further submitted by the learned counsel for the petitioner that before passing the impugned order, no notice nor any opportunity of being heard was afforded to the petitioner herein.

5. Per contra, it is vehemently contended by the learned Government Pleader 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 under Article 226 of the Constitution of India. He further submitted that having filed a revision before the 1st respondent-State Government, it is not open to the petitioner to approach this Court under Article 226 of the Constitution of India.

6. Absolutely, there is no dispute with regard to the fact that primary authority-3rd respondent herein passed an order on 04-06-2008 in Case No.72/2008/MNGR, dropping further action. On appeal filed by the 4th respondent, the appellate authority passed an order, dated 07-03-2015 in CMA No.56 of 2011, setting aside the order passed by the primary authority and further directed the 4th respondent to take over the schedule property into Government custody by evicting the persons in possession of the property and assign the same to the eligible Tribals under a cover of panchanama and further directed the Tahsildar, Manugur Mandal to register a complaint in the concerned Police Station under 6-A (1) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959. As against the orders of the appellate authority, the petitioner herein filed a revision petition before the 1st respondent, dated 04-08-2015 and also filed an application seeking stay. The 1st respondent-State Government vide impugned memo, dated 29-09-2015 rejected the request of the petitioner for grant of stay.

7. A perusal of the impugned order clearly discloses that the 1st respondent-State Government did not assign any reasons for

rejecting the request of the petitioner for grant of interim order. It is further clear from the impugned memo that the 1st respondent-Revisional authority sent a copy of revision petition to the 2nd respondent-Additional Agent to the Government, Bhadrachalam with a request to send parawise remarks and records in the matter so as to enable the 1st respondent to dispose of the revision. It is settled and established proposition of law that the orders of quasi-judicial authorities should necessarily be supported by valid reasons. In the instant case, the same is conspicuously absent in the impugned memo. It is also the case of the petitioner that without issuing any notice and affording any opportunity of being heard, the 1st respondent herein passed the impugned memo rejecting for grant of stay. In view of these reasons, the impugned memo No.6102/TW.LTR/2015-1, dated 29-09-2015 cannot stand for the twin tests of reasonableness and rationality.

8. For the aforesaid reasons, the writ petition is disposed of, directing the 1st respondent-State Government to pass appropriate orders on the revision petition, dated 04-08-2015 filed by the petitioner herein against the order, dated 07-03-2015 passed by the 2nd respondent in CMA No.56 of 2011 in respect of the land in Sy.No.284 to an extent of Ac.0.15 gts. situated at Manuguru village and Mandal of Khammam District as expeditiously as possible preferably within a period of 3 months from the date of receipt of a copy of this order after giving notice and opportunity of being heard to the petitioner. Till such exercise attains finality, *status quo* as on today with regard to the subject property shall be maintained. No order as to costs.

9. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

A.V.SESHA SAI, J

DATED: 27-10-2015

Hsd