

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

WRIT PETITION No.23487 of 2015

ORDER:

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

“to issue Writ of Mandamus declaring the action of the respondents in seeking to evict the petitioners from their lands to an extent of Hec.0.76 cents in S.No.292/6 and Hec.0.09 cents in Survey No.292/10 situated in Indukuru Village, Devipatnam Mandal, East Godavari District in pursuance of the order passed by the 2nd respondent in LTRP No.122/2007, dated 20.07.2010 pending disposal of the appeal filed before the 2nd respondent as illegal and arbitrary.”

Petitioners herein claim to be the owners and possessors of the land admeasuring Hec.0.76 in S.No.292/6 and Hec.0.09 in Survey No.292/10 situated in Indukuru Village, Devipatnam Mandal, East Godavari District. According to the petitioners, the said properties are their ancestral properties and at any point of time no tribal has been in possession and enjoyment of the said lands. The petitioners claim to have acquired the said landed property from their grand father, late Sri Koppiseti Aravalu. According to the petitioners, their family members have been in continuous possession and enjoyment of the said properties for several decades and right now they are in possession of the said properties. On the complaint made by the Special Deputy Tahsildar, Devipatnam Mandal, East Godavari District-5th respondent, the Agency Divisional Officer, Rampachodavaram, 3rd respondent herein initiated proceedings under Land Transfer Regulations and passed order of ejectment on 20.07.2010. According to the petitioners, their names were wrongly mentioned as Koppisetty Satyavathi and Koppisetty Prasad, as such they could not contest the matter. It is the further case of the petitioners that they were not aware of the proceedings of 3rd respondent and no notice nor opportunity was given to them at any point of time.

According to the petitioners, they filed appeal before the Additional Agent

to the Government, Rampachodavaram-2nd respondent under Rule 8(2) of the A.P.S.A. Land Transfer Rules, 1969 against the orders of the 3rd respondent, on 09.06.2015. It is also stated that along with the said appeal, petitioners also filed a stay application, so also an application under Section 5 of the Limitation Act, seeking condonation of delay in filing the appeal.

The grievance of the petitioners in the present writ petition is that though they filed statutory appeal before the 2nd respondent, no orders have been passed so far by the 2nd respondent. On the other hand, the Tahsildar, Devipatnam Mandal, East Godavari District-4th respondent, who is the executing authority is taking steps to evict the petitioners from the subject property at the instance of the 3rd respondent. It is submitted that if the petitioners are evicted pending appeal before the 2nd respondent, they will be put to irreparable loss and hardship.

In the present case, according to the petitioners without giving any notice and without affording any opportunity of being heard, while mentioning the names wrongly in the proceedings, order of ejectment was passed by the 3rd respondent.

Taking into consideration the totality of the circumstances and after giving thoughtful consideration to the issue, this Court is of the considered opinion that the ends of justice would be met if the 2nd respondent is directed to pass appropriate orders on the condone delay application and stay application filed by the petitioner on merits by fixing some time frame.

For the aforesaid reasons, the Writ Petition is disposed of directing the 2nd respondent to pass appropriate orders on the condone delay and stay applications filed by the petitioners on 09.06.2015 within a period of two months from the date of receipt of a copy of this order. Till such exercise is completed, *status quo* obtaining as on today shall be maintained with regard to the subject property. No costs.

As a sequel, the miscellaneous applications, if any, shall stand closed.

A.V. SESA SAI, J

Date : 29.07.2015

ssp