

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

* * *

WRIT PETITION No. 27873 of 2015

BETWEEN

K.Manmadha Rao and another

... PETITIONERS

AND

The State of A.P., Rep. by its Principal Secretary,
Revenue Department and others

...RESPONDENTS

Date of Order pronounced: 01.09.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals? | Yes/No |
| 3. Whether his Lordship wish to see the
fair copy of the Judgment? | Yes/No |

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ORDER:-

Heard.

2. Petitioner herein questions the order of the second respondent dismissing his appeal in Roc.No.966/2015(D) dated 11.08.2015.

Said appeal was directed against the order of the Tahsildar, passed under Section 6 of the Land Encroachment Act, 2005. Petitioner was admittedly given a notice and he submitted his explanation thereto and thereafter the Tahsildar proceeded to pass the order on 07.04.2015 directing eviction of the petitioner. Petitioner preferred appeal before the second respondent, which came to be dismissed under the impugned order. Petitioner questions the said order on various grounds including that his father was assigned land on payment of consideration. However, no documentary evidence could be produced by the petitioner either before the Tahsildar or before the Revenue Divisional Officer (RDO). Secondly, learned counsel states that the land is an unassessed waste land and since the petitioner is in possession since 40 years, the impugned proceedings could not have been initiated against him.

3. I, however, find that petitioner has a remedy of questioning the said order before the Government under Section 12-A of the Act where the legality, propriety, and irregularity of the order can always be re-examined by the Government and that under sub-clause (2) of Section 12-A, the State Government has the power for stay of execution of any such order of the authority.

4. Since petitioner seeks to agitate all factual aspects, primarily, coupled with the legal contention that the land was assigned to him under BSO, which cannot have precedence over the Act, I deem it appropriate to permit the petitioner to avail the said remedy under Section 12-A of the Act. In view of that, therefore, it is not necessary to adjudicate upon the questions raised, as it would amount to pre-adjudicating the issue itself before the revision petition is considered by the revisional authority.

5. Writ petition is therefore disposed of permitting the petitioner to avail

the said remedy. In view of the contentions of the petitioner that he is in possession for over 40 years, the impugned order shall remain stayed for a period of four weeks, within which petitioner shall approach the revisional authority and seek appropriate interim orders from such authority.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

September 1, 2015

LMV