

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 23191 OF 2010

ORDER:

This writ petition is filed under Article 226 of the Constitution of India questioning the action of the respondents in initiating the proceedings under A.P. Scheduled Areas Land Transfer Regulations (for short, “the Regulations”) vide SDC LTR No.123/2010.

Heard learned counsel for the petitioner and learned Government Pleader for respondent Nos.1 and 2. Despite service of notice, none appears for respondent Nos.3 and 4.

According to the petitioner, his father owned an extent of Ac.2.14 cents of land in Sy.No.57 and Ac.4.25 cents in Sy.No.55/1A situated at Gondolu Village, Addateegala Mandal, East Godavari District and passed away in the year 2005 leaving behind him as sole legal heir. It is the case of the petitioner that his father purchased the abovementioned lands by way of registered sale deed, dated 15.03.1969, from one Magapu Chandramma and that the revenue authorities issued pattadar pass books and title deeds in favour of his father during his life time and after his death, his name was incorporated in the revenue records as owner and possessor. The Special Deputy Collector (Tribal Welfare), Rampachodavaram, East Godavari District – 1st respondent herein issued notice in Form-E under the A.P. Scheduled Areas Land Transfer Regulations, 1959 as amended by Regulation 1/70 proposing to hold an enquiry. The said notice is under challenge in the present writ petition.

The principal contention advanced by the learned counsel for the petitioner is that earlier on a complaint made by the 2nd respondent,

proceedings under Section 3 of the Regulations were initiated by the 1st respondent in respect of the self-same lands vide LTRP Nos.804 and 802 of 1979 and the said proceedings ended in favour of the petitioner's father by way of orders, dated 11.12.1980 and 31.01.2000 and that the said orders became final, as no appeals were filed either by the 2nd respondent or any other interested person. While referring to the same, it is submitted by the learned counsel for the petitioner that the earlier orders operate as res judicata and the authorities cannot be permitted to proceed once again in view of the law laid down by a Division Bench of this Court in **Chintalapati Ramalinga Raju vs. District Collector, Eluru, W.G. District**¹. In the said judgment the Division Bench in paragraph 2 held as under:

“The matter arises under the provisions of the A.P. Scheduled Areas Land Transfer Regulations, 1959 (for short ‘The Regulations’). The learned Single Judge has dismissed the Writ Petition on the ground that the apprehension of the petitioner may not be real. But, it is evident from the proceedings dated 04.11.1998 in Rc.No.230 of 1997 (Supt.) of the Mandal Revenue Officer, Buttaigudem Mandal addressed to the Special Deputy Tahsildar, Tribal Welfare, K.R. Puram that action was sought to be taken against the petitioner on the ground that the judgment rendered by the Special Deputy Collector, Tribal Welfare hitherto dated 5.09.1981 is doubtful. But, it is a well settled law that when a judgment is rendered under the Regulations, it becomes final and there is no review of the same. It is not disputed that the order dated 5.09.1981 rejecting the application for eviction of the petitioner – appellant herein on the ground that unauthorized possession was rejected and the said order had become final. It is also not disputed by the learned Government Pleader, Social Welfare that there is no review provision in the A.P. Scheduled Areas Land Transfer Regulations, 1959. In fact, that legal position is well settled by series of judgments of this Court.”

In the instant case also, since the earlier orders, dated 11.12.1980 and 31.01.2000, passed by the 1st respondent in LTRP Nos.804 and 802 of 1979 became final, in the considered opinion of this Court, the 1st respondent herein once again cannot be permitted to proceed with the enquiry in respect of the same lands.

¹ 2000 (4) ALD 443 (DB)

For the aforesaid reasons, the Writ Petition is allowed setting aside the proceedings initiated by the 1st respondent vide SDC LTR No.123 of 2010.

Miscellaneous petitions, if any, shall stand closed. No order as to costs.

A.V. SESA SAI, J

Date: 18.10.2016
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