

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 10969 OF 2008

ORDER:

This writ petition is filed for the following relief:

“... to issue a writ or order or direction in the nature of writ of mandamus declaring action of the 1st respondent not passing orders either in appeal or in stay petition against the eviction order in S.R.No.46/2007 of the 2nd respondent, dated 09.10.2007, is illegal, arbitrary and violation of principles of natural justice and consequently direct the respondents not evict the petitioner from Ac.3.74 cents in R.S.No.12/2 situated at Tatiyakuagudem, Jeeugumilli Manda.”

Heard the learned counsel for the petitioner and the learned Government Pleader for Social Welfare for the respondents.

According to the petitioner, he is the absolute owner of land admeasuring Ac.3.74 cents in R.S.No.12/2 of Tatiyakulagudem, Jeelugumilli Mandal, West Godavari District, having acquired the same from his ancestors. It is stated that as per R.S.R. 1933, the petitioner's grandfather was shown as original pattadar and basing on the complaint made by the Special Deputy Tahsildar (Tribal Welfare), Polavaram, the Special Deputy Collector (Tribal Welfare, Polavaram, initiated enquiry under the provisions of A.P. Schedule Area Land Transfer Regulations (hereinafter referred to as “the Regulations”) and passed an order of ejectment in S.R.No.46 of 2006, dated 09.10.2007. Aggrieved by the said order, the petitioner filed an appeal before the Agent to Government (District Collector), West Godavari, Eluru, on 20.04.2008 along with an application praying for stay. Alleging inaction on the part of the 1st respondent, appellate authority, in passing orders in the appeal or on the stay application, the present writ petition came to be filed.

This Court, while ordering Rule Nisi on 21.05.2008 in W.P.M.P.No.14282 of 2008, granted interim direction directing the respondents not to evict the

petitioner from the subject property until further orders while keeping it open for the respondent authorities to dispose of the appeal on merits as per law.

Counter affidavit deposited by the Special Deputy Collector, Polavaram, is filed on behalf of the respondents denying the averments made in the affidavit filed in support of the writ petition and in the direction of justifying the impugned action. In the counter affidavit, it is stated that the Government would take action on the stay application. The respondents filed the counter affidavit as long back as in the month of December, 2014 and no information is forthcoming as to the status of the appeal.

Having regard to the nature of controversy and as the petitioner came up before this Court pending appeal before the 1st respondent, Agent to the Government, this Court deems it appropriate to direct the 1st respondent to pass appropriate orders on the appeal said to have been filed by the petitioner against the orders of the 2nd respondent in S.R.No.46 of 2007, if the same is pending, after giving notice and an opportunity of hearing to all the stakeholders, within a period of three months from today. Pending such exercise, the interim order granted by this Court in W.P.M.P.No.14282 of 2008 shall continue to operate. However, it is made clear that this order will enure to the benefit of the petitioner only, if the appeal is pending.

With the above directions, the writ petition is disposed of.

Miscellaneous petitions, if any, shall also stand disposed of. No order as to costs.

A.V. SESA SAI, J

Date: 22.12.2016
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