

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

WRIT PETITION No.17774 OF 2006

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India challenging the order passed by the State Government, the 1st respondent herein, vide G.O.Ms.No.40, dated 16.05.2006.

2. Heard Sri Naram Nageswar Rao, learned counsel for the petitioner, and learned Government Pleader for Social Welfare appearing for the respondents.

3. The Special Deputy Collector (Tribal Welfare), K.R. Puram, Buttaigudem Mandal, West Godavari District, the 3rd respondent herein, pressed into service the provisions of the Andhra Pradesh (Scheduled Areas) Land Transfer Regulations (hereinafter called 'the Regulations'). On a complaint filed by the Special Deputy Tahsildar, K.R. Puram, West Godavari District, the 4th respondent, after holding enquiry as per the Regulations, the 3rd respondent passed an order of ejectment vide S.R.Nos.98/85 and 99/85, dated 30.06.1990. Aggrieved by the said order, an appeal vide S.R.A.No.14/90 was filed on the file of the Agent to Government, West Godavari District, Eluru, the 2nd respondent herein. The 2nd respondent vide order, dated 21.07.2001, dismissed the said appeal. As against the said order, the petitioner filed a revision before the 1st respondent. The 1st respondent vide G.O.Ms.No.40, dated 16.05.2006, dismissed the said revision confirming the orders passed by the sub-ordinate authorities. Calling in question the validity and the legal sustainability of the said Governmental Order, the present Writ Petition came to be filed.

4. This Court, while ordering *rule nisi*, on 28.08.2006, in W.P.M.P.No.22296 of 2006, granted an order of *status quo* as to the nature and possession of the land in question.

5. Denying the averments in the affidavit filed in support of the Writ Petition and in the direction of justifying the impugned orders, a counter affidavit has been filed by the respondents.

6. It contended by the learned counsel for the petitioner that the order passed by the 1st respondent, dismissing the revision filed by the petitioner and thereby confirming the appellate and primary orders passed by the sub-ordinate authorities is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 300A of the Constitution of India besides being opposed to the very spirit and object of the provisions of the Regulations. It is further submitted by the learned counsel that revisional, appellate and primary authorities grossly erred in not considering the documentary evidence made available, which resulted in refusal of the claim of the petitioner. It is also the submission of the learned counsel that had the evidence adduced by the petitioner been considered from proper perspective, the orders under challenge would not have been emanated.

7. On the contrary, it is vehemently contented by the learned Government Pleader for Social Welfare that there is absolutely no illegality, nor there is any procedural deviation, and as such, the present Writ Petition is not maintainable and the petitioner is not entitled to any relief under Article 226 of the Constitution of India. It is also the submission of the learned Government Pleader that the finding of fact recorded by the authorities, unless sufferers from perversity, cannot be disturbed by this Court by way of judicial review under Article 226 of the Constitution of India. It is also the submission

of the learned Government Pleader that the authorities are perfectly justified in holding against the petitioner, as he failed to produce any documentary proof as to the existence of the land claimed.

8. The information available before this Court vividly discloses that the 3rd respondent took into consideration the R.S.R. for the year 1933 and concluded against the petitioner. The 2nd respondent considered the R.S.R. pertaining to the subject land and found ultimately that the petitioner did not file the documentary evidence to show as to how his predecessors came into possession of the schedule land. It is also evident from the said order that the 2nd respondent verified the sale deed, dated 16.06.1913, and the Will, dated 14.10.1935, and found that there were no survey numbers. The revisional authority/1st respondent, as evident from the G.O., under challenge, recorded categorical findings with regard to the merits of the matter and lack of evidence. It is further evident from the orders under challenge that according to R.S.R.1933, the subject land stood registered in the name of third parties.

9. In the absence of evidence and in the considered opinion of this Court, the respondent authorities are perfectly justified in concluding against the petitioner and this Court, in exercise of powers under Article 226 of the Constitution of India and in the facts and circumstances of the case, is not inclined to go into the finding of fact recorded by three authorities in the absence of any perversity.

10. For the aforesaid reasons, the Writ Petition is dismissed. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A. V. SESA SAI, J

Date:23.06.2016

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