

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.24800 of 2007

ORDER:

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

2. This writ petition was filed by a non-tribal challenging the order of remand passed by the first respondent in CMA.No.26 of 2006 dated 28.07.2007 directing the third respondent to bring the legal heirs of the deceased on record and proceed with the case.

3. The second respondent took up the case on the report submitted by the third respondent in case No.1588/93/MGR against one R.Nageswar Rao, who died by that time. The petitioner therein, P.Satyanarayana, on whose behalf the proceedings were taken up, also died. However, the wife of R.Nageswar Rao, petitioner herein, was shown as his legal representative and an order was passed on 19.08.2005 ordering her ejectment from the land of an extent of Ac.0-03 guntas in Sy.No.138/11 of Manugur Village & Mandal, Khammam District. The petitioner herein preferred CMA.No.26 of 2006 before the first respondent and contended that the proceedings initiated on behalf of a dead person against a dead person was a nullity. In those circumstances, the first respondent accepted the said plea but directed the third respondent to bring the legal heirs of the deceased on record and take necessary steps to proceed with the case.

4. This Court noticed that the proceedings were taken on the report submitted by the third respondent in the name of a dead person. The land involved is Ac.0-03 guntas in Sy.No.138/11 of Manugur Village & Mandal, Khammam District. The petitioner as well as the complainant, on whose behalf the proceedings were taken up, are non-tribals. If the interest of the tribal is

involved in any manner, the name of the tribal should have been shown as the petitioner. But, the petitioner also appears to be a non-tribal.

5. In the circumstances, this writ petition is allowed setting aside the order of the first respondent in CMA.No.26 of 2006 dated 28.07.2007, but however, giving liberty to the third respondent to initiate fresh proceedings, if he is so advised, based on the record available with him. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 16.02.2016

TJMR