

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.37702 of 2016

ORDER:

This Writ Petition, under Article 226 of Constitution of India, is filed seeking the following relief:

“....declaring the action of the 2nd Respondents in not disposing the I.A.No. NIL of 2016 filed by petitioner received on 05.10.2016, and further action of the 3rd Respondent in interfering on the basis of exparte Judgement in A.O.S.No.26 of 2015 dated 09.9.2016 even after issuing notice dated 05.10.2016 without following the procedure contemplated under The Andhra Pradesh Agency Rule, 1924 as illegal, arbitrary, unjust, violative of principles of natural justice, violative of fundamental rights guaranteed under Constitution of India, and the Constitutional Right guaranteed under Article 300-A, contrary to The Andhra Pradesh Agency Rule, 1924.”

2. Heard and perused the material available on record.
3. The case of the petitioner is that she inherited the property admeasuring Ac.0-09 cents of land at Balaram Village, Koyyuru Mandal, Visakhapatnam and she is also paying property tax to the Gram Panchayat. Originally her husband purchased Ac.0-20 cents of land from one Bandaru Nooka Raju about 50 years ago. Out of it, he divided the said land into two parts and during his life time, he sold Ac.0.09 cents to one D.Appalakonda and constructed a house in 5 cents and left 4 cents of vacant land with partly constructed thatched shed for cattle. Later the land to an extent of Ac.0.09 cents was sold to one Usman by D.Appalakonda and the said Usman sold the same to one B.Peddathata Abbaie, who sold the same to 4th respondent. The 4th respondent, who purchased only Ac.0-09 cents of land, with an ill intention to grab the petitioner's land and have bigger access to his land, was making false complaints before the authorities. The 4th respondent issued notice through his counsel, for which the petitioner gave reply. Thereafter, the

4th respondent filed a suit vide A.O.S.No.26 of 2015 before the 2nd respondent. When the suit was decreed set ex parte, the 3rd respondent visited property and directed the petitioner to remove the thatched shed in order to create bigger access as per judgment, dated 09.09.2016.

4. Learned counsel for the petitioner submits that on the basis of the *ex parte* order, dated 09.09.2016 passed by the 2nd respondent herein in A.O.S.No.26 of 2015 the 3rd respondent may evict the petitioner from the premises in question; that against the said order the petitioner already filed I.A. No.____ of 2016 in A.O.S.No.26 of 2015 seeking to set aside the *ex parte* order, but the 2nd respondent has not passed any order till date and hence, he prays to direct the 3rd respondent not to act upon the order communicated by the 2nd respondent herein.

5. Considering the submissions and perusal of the record, the Writ Petition is disposed of directing the 2nd respondent herein to dispose of I.A.No.____ of 2016 in A.O.S.No.26 of 2015 filed to set aside the *ex parte* order, dated 09.09.2016 passed in A.O.S.26 of 2015 on or before 16.12.2016. Till disposal of the said I.A., the 3rd respondent herein shall not proceed on the basis of the judgment passed in A.O.S. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

RAJA ELANGO, J

NOVEMBER 03, 2016

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DATE: 03.11.2016

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