

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

MONDAY THE FOURTH DAY OF JANUARY
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 6921 OF 2008

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Between:

Chennam Beeraiah & Anr. ... Petitioners

Vs.

The Addl. Agent to the Government &
Project Officer, I.T.D.A.
Bhadrachalam, Khammam district & Anr. ... Respondents

Counsel for the Petitioner: Sri Kowturu Vinaya Kumar

Counsel for the Respondents: GP for Social Welfare

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 6921 OF 2008

ORDER :

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This writ petition filed under Article 226 of the Constitution of India, assails the action of the Additional Agent to the Government-first respondent in taking up appeal in CMA.No. 167 of 2005 by exercising suo motu powers.

2. Heard Sri Kowturu Vinaya Kumar, learned counsel for the petitioners and the learned Government Pleader for Social Welfare for the respondents.

3. According to the petitioners, they are the absolute owners and possessors of the agricultural land admeasuring Acs:10-24 guntas and Acs:3-00 situated in survey Nos. 182, 184 and 68/U of Bhavanapalem village of Penuballi Revenue Mandal, Khammam district. It is further pleaded that the subject property was purchased by the petitioners prior to the advent of the A.P. [Scheduled Area] Land Transfer Regulations, as such, the said Regulations cannot be made applicable.

4. On a report submitted by the Special Deputy Tahsildar, [Tribal Welfare], Bhadrachalam, dated 23/3/2004, the Special Deputy Collector-second respondent herein initiated proceedings under the Land Transfer Regulations and passed an order on

23/3/2004 in LTR Case No. 183/2004/PNB, holding that the Land Transfer Regulations would not attract the subject lands of the petitioners. As against the said orders passed by the Special Deputy Collector, the first respondent Additional Agent to the Government took up the appeal suo motu and issued notice vide CMA.No. 167 of 2005. The said entertainment of appeal suo motu by the first respondent is under challenge in the present writ petition.

5. It is the contention of the learned counsel for the petitioner that section 3 [a] of the Land Transfer Regulations does not confer any suo motu powers for entertaining the appeal on the first respondent and as such, the very entertainment of the appeal is impermissible.

6. On the contrary, it is contended by the learned Government Pleader for the respondents that the action of the first respondent in suo motu taking up the appeal against the orders passed by the second respondent is permissible and cannot be faulted. In order to adjudicate the said issue it may be appropriate to extract section 3 [a] of the Land Transfer Regulations, which reads as under:

Section 3 [a] :

Subject to such conditions as may be prescribed, an appeal against any decree or order under sub-section [2], shall lie within such times as may be prescribed ---

[i] if the decree or order was passed by the Agent, to the State Government;

[ii] if the decree or order was passed by the Agency Divisional Officer, to the Agent; and

[iii] if the decree or order was passed by any other officer, to the Agency Divisional Officer or Agent, as may be prescribed.

7. It is to be noted further that under section 2 [a] of the Land Transfer Regulations, the first respondent herein is competent to initiate action. The said provision of law reads as under:

Section 2 [a] :

Where a transfer of immovable property is made in contravention of sub-section [1], the Agent, the Agency Divisional Officer or any other prescribed Officer may, on application by any one interested, or on information given in writing by a public servant, or suo motu decree ejectment against any person in possession of the property claiming under the transfer, after due notice to him in the manner prescribed and may restore it to the transfer or his heirs.

8. The learned Government Pleader while referring to the above provision of law seeks to justify the impugned action. A reading of the above provisions of law makes it abundantly clear

that under the provisions of the Land Transfer Regulations, the first respondent-agent to the Government cannot entertain the appeal suo motu but is competent to initiate action under section 2 [a] of the Regulations.

9. In view of the above provision of law, this writ petition is disposed of, declaring the action of the first respondent in entertaining the appeal suo motu as without jurisdiction. However, it is open to the first respondent herein to initiate action as per section 2 [a] of the Land Transfer Regulations after giving notice and opportunity of hearing to the petitioners. No costs.

10. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE A.V.SESHA SAI

04/01/2016
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HONOURABLE SRI JUSTICE A.V. SETHA SAI

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