

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 26235 OF 2007

ORDER:

This writ petition filed under Article 226 of the Constitution of India challenges the order, dated 20.11.2007, passed by the Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District, 1st respondent herein, in LTRP.No.13 of 2006.

Heard Sri K. Venkatesh, learned counsel for the petitioners, learned Government Pleader for Social Welfare for respondent Nos.1 and 2 and Sri P. Giri Krishna for respondent No.3 apart from perusing the material available before the Court.

According to the affidavit filed in support of the writ petition, the case of the petitioners is that they belong to scheduled tribe and that the 2nd petitioner is the owner and possessor of the land admeasuring Ac.0.10 cents in Sy.No.56 of Addateegala Village and Mandal, East Godavari District, which is her ancestral property. It is further averred that after obtaining necessary building permission from the Gram Panchayat, Addateegala, a building was constructed in the said land. On a complaint made by the 3rd respondent, the 1st respondent initiated enquiry under the provisions of the A.P. Scheduled Areas Land Transfer Regulations, 1959 (for short, "the Regulations") in LTRP.No.13 of 2006 and passed order on 20.11.2007 ordering ejectment of the petitioners from the subject land and restoration of the same to the 3rd respondent. The said order of ejectment is under challenge in the present writ petition.

According to the learned counsel for the petitioners, the order of ejectment passed by the 1st respondent is in total violation of principles of natural justice

besides being violative of Articles 14 and 21 of the Constitution of India and opposed to the very spirit and object of the Regulations.

On the contrary, learned Government Pleader and learned counsel for the contesting respondent submit that neither there is any illegality nor there exists any procedural infirmity in the impugned action and in the absence of the same, the present writ petition under Article 226 of the Constitution of India is not maintainable and the petitioners are not entitled for any relief from this Court.

The information available before this Court discloses that on 24.08.2007 as the 1st respondent was otherwise engaged on leave, the matter was adjourned to 28.09.2007 and on the said date, as both the counsel requested time for filing counters, the 1st respondent directed the matter to be listed on 09.11.2007. Thereafter, the matter appeared on 13.11.2007 and both the parties were absent and they were set ex-parte and eventually on 20.11.2007, the 1st respondent passed the order of ejectment.

Learned counsel for the petitioners submits that since valuable rights of the parties are involved in the litigation, the 1st respondent ought to have afforded reasonable opportunity to the stakeholders and should not have passed the order of ejectment in a hurried manner. Learned counsel further submits that the order of the 1st respondent is completely devoid of any reasons much less valid reasons. This Court finds sufficient force in the said submissions having regard to the facts and circumstances of the case.

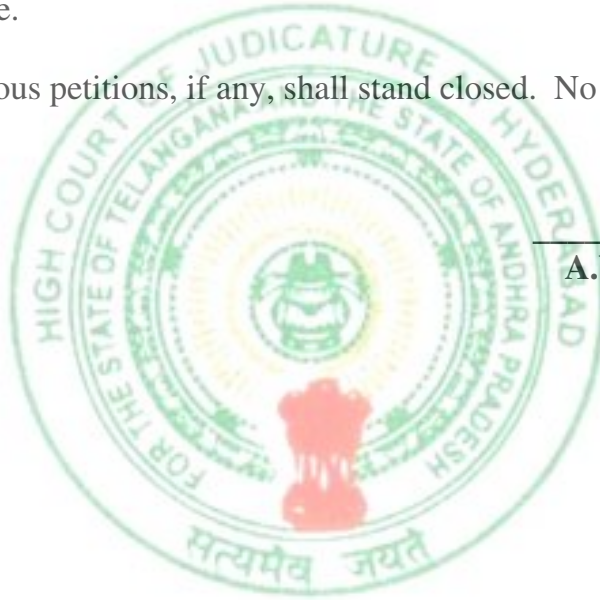
This Court as long back as on 10.12.2007, while ordering Rule Nisi, granted interim suspension in WPMP.No.34223 of 2007 and the said order is in existence till date. As pointed out by the learned counsel for the petitioners, since valuable rights of the parties are involved in the case on hand, this Court is of the considered opinion that the ends of justice would be served if the matter is

remanded to the 1st respondent for fresh consideration in accordance with law after giving notice and opportunity of being heard to all the stakeholders so that finality can be achieved.

For the aforesaid reasons, writ petition is allowed, setting aside the order, dated 20.11.2007, passed in LTRP.No.13 of 2006 and the matter is remanded to the 1st respondent for fresh consideration in accordance with law, after giving notice and opportunity of being heard to all the stakeholders, within a period of four months from the date of receipt of a copy of this order. Till the said exercise attains finality, the interim order granted by this Court on 10.12.2007 shall continue to operate.

Miscellaneous petitions, if any, shall stand closed. No order as to costs.

Date: 31.10.2016
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A.V. SETHA SAI, J