

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

WRIT PETITION No.28279 of 2007

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the order passed by the 1st respondent – Special Deputy Collector (Tribal Welfare), Paloncha Mandal, Khammam District in L.T.R. Case No.753/94/J&P, dated 06-02-1997.

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

According to the petitioners, petitioner No.1 is the daughter and the petitioners 2 to 4 are the grand children of one Smt.Ganapa Chandramma. Sri Ganapa Veeraiah, husband of said Ganapa Chandramma purchased the subject land admeasuring Ac.4-28 gts., in Sy.No.155 of Machinenipeta village, Julurpad Mandal, Khammam District about 50 years back. The Special Deputy Collector (Tribal Welfare) initiated proceedings under A.P. Scheduled Areas Land Transfer Regulation Act, 1959 in respect of the subject property vide L.T.R. Case No.753/94/J&P and passed an order of ejectment on 06-02-1997 against Smt. Ganapa Chandramma. The validity and the legal sustainability of the said order of ejectment is under challenge in the present writ petition.

The principal contention advanced in the present writ petition is that the 1st respondent – Special Deputy Collector passed the order of ejectment against a dead person, as such, the same is nullity in the eye of law.

According to the petitioners, Smt. Ganapa Chandramma died on 22-03-1996 and in support of the same a Death Certificate issued by Tahsildar, Julurupadu Mandal, Khammam District vide L.Dis.No.ASO/2901/2007, dated 10-12-2007 is placed on record by the petitioners.

In the instant case, the 1st respondent passed the impugned order on 06-02-1997, whereas the person against whom the proceedings were initiated i.e., Smt. Ganapa Chandramma passed away on 22-03-1996. Even according to the impugned order both the parties before the 1st respondent were called absent and there was no representation also.

It is settled and well-established proposition of law that any order passed against a dead person is void and nullity in the eye of law. The date of death of Smt. Ganapa Chandramma is not disputed by the respondents herein. Therefore, on this ground alone the order under challenge is liable to be set aside.

For the aforesaid reasons, the writ petition is allowed, setting aside the order passed by the 1st respondent vide

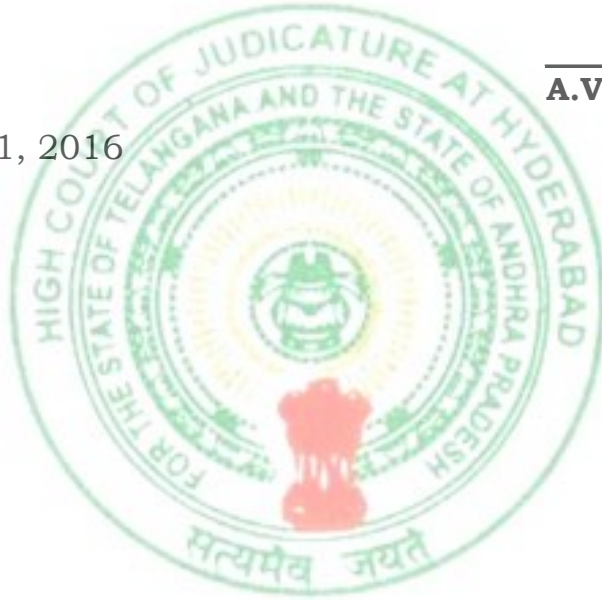
L.T.R. Case No.753/94/J&P, dated 06-02-1997 and it is open for the 1st respondent to initiate action under the provisions of A.P. Scheduled Areas Land Transfer Regulation Act, 1959, in accordance with law, after giving notice and opportunity of being heard to all the stake-holders. There shall be no order as to costs.

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

November 01, 2016

Pn

A.V. SESA SAI, J



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



WRIT PETITION No.28279 of 2007

November 01, 2016