

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

W.P.No.1194 of 2009

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, assails the letter bearing No.7104/LTR-2/2008, dated 07.11.2008 of the fifth respondent herein, rejecting the revision filed by the petitioner under the A.P. Land Transfer Regulations (hereinafter called 'the Regulations').

2. Heard Sri K.Venkatesh, learned counsel for the petitioners and the learned Government Pleader for Social Welfare for the respondents apart from perusing the material available before the Court.

3. On the complaint made by the Special Deputy Tahsildar, Tribal Welfare, Devipatnam, East Godavari District/the fourth respondent herein, the Special Deputy Collector (Tribal Welfare), Rampachodavaram, East Godavari District/second respondent herein initiated enquiry under the Regulations and passed the order against one Smt.Madasa Mangayamma, daughter of the first petitioner and the wife of the second petitioner herein. The Special Deputy Collector, on 06.05.2003, passed an order dropping further action. As against the said order, the Special Deputy Tahasildar/the fourth respondent herein filed CMA.38/2005 before the Additional Agent to Government/first respondent herein. The first respondent/Additional Agent to Government, by virtue of an order dated 05.03.2008, allowed the said appeal directing eviction. Aggrieved by the said orders, the petitioners herein filed a revision under Regulation 6 of the Regulations before the fifth respondent/State Government. The fifth respondent/State Government vide No.7104/LTR-2/2008, dated 07.11.2008, rejected the said revision as time barred and on the ground of variation in the signatures of the counsel.

4. According to the learned counsel for the petitioners, the impugned letter dated 07.11.2008 rejecting the revision is highly arbitrary, violative of Article 14 of the Constitution of India and violative of principles of natural justice. It is further stated by the learned counsel, reiterating the averments in the affidavit filed in support of the writ petition, that the fifth respondent did not issue any notice before passing the impugned order.

5. Responding to the *Rule Nisi*, a counter affidavit deposed by the second respondent is filed on behalf of the respondents denying the averments in the writ affidavit and in the direction of justifying the impugned action.

6. The information available before this Court discloses in clear and vivid terms that as against the order passed by the Additional Agent to Government/the first respondent herein allowing CMA.38/2005 preferred by the Special Deputy Collector, the petitioners herein filed a statutory revision under Regulation No.6 of the Regulations. Regulation No.6 of the Regulations reads as under:

“6. Revision:-

The State Government may revise any decree of order passed by the Agent, the Agency Divisional Officer or any other prescribed officer under this Regulation.

Provided that this power shall be exercised only after due notice to the parties affected by the decree of order and after giving them a reasonable opportunity of being heard.”

7. In fact, it is important to note that there is no time limit prescribed under the Regulations for preferring the revision before the State Government under the Regulations or under the Rules framed there-under. In fact, the petitioners herein filed revision before the State Government on 07.11.2008 against the orders dated 05.03.2008 passed by the second respondent. In the considered opinion of this Court, the said delay is neither unreasonable nor exorbitant. Another important aspect is that in the affidavit

filed in support of the writ petition, it is the categoric case of the writ petitioners that without giving any notice and opportunity of being heard, the fifth respondent/State Government rejected the revision.

8. It is a settled and well established proposition of law that any action of the authorities, which has civil consequences, should necessarily be preceded by a notice and opportunity of being heard to the persons likely to be effected by such action. In the instant case, the said principle is completely given a go-bye. Though, it is specifically pleaded in the writ affidavit as regards the non-issuance of the notice, the counter affidavit filed by the respondents is absolutely silent on the said aspect. Therefore, it can safely be concluded that the impugned action is in total violation of the principles of natural justice and on this ground alone the order under challenge is liable to set aside and the matter deserves to be remanded to the fifth respondent/State Government for fresh consideration, in accordance with law.

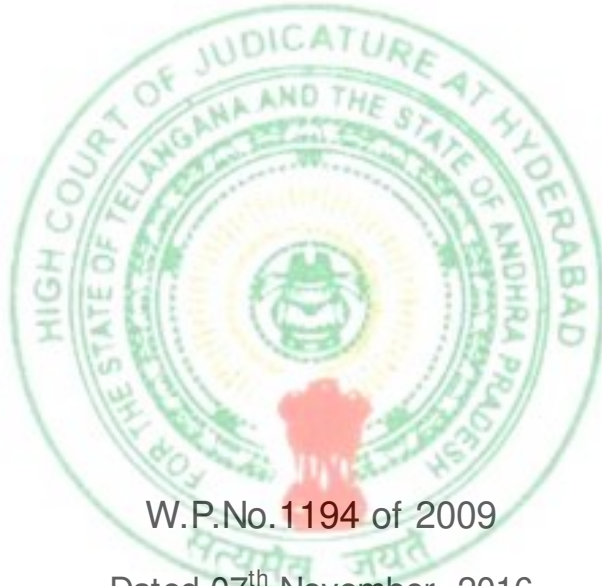
9. For the aforesaid reasons, the writ petition is allowed, setting aside the letter bearing No.7104/LTR-2/2008, dated 07.11.2008, issued by the fifth respondent/State Government and consequently the revision filed by the petitioners against the orders passed by the Additional Agent to Government in CMA.No.38/2005, dated 05.03.2008, stands restored to file and the fifth respondent/State Government is directed to dispose of the revision filed by the petitioners on 01.08.2008, in accordance with law, after giving notice and opportunity of being heard to the petitioners herein, within a period of six months from the date of receipt of a copy of this order. As a sequel, pending miscellaneous petitions, if any, shall stand disposed of. No costs.

A.V.SESHA SAI, J

Date:07.11.2016
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



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Dated 07th November, 2016

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