

THE HON'BLE SRI JUSTICE A.V. SESA SAI
WRIT PETITION No.26610 of 2007

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the proceedings initiated by the first respondent Agency Divisional Officer, Rampachodavaram, E.G. District at the instance of the second respondent for ejectment of the petitioner in ADO LTR No.75/2007 as illegal and arbitrary.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Social Welfare for the first respondent. Despite service of notice, none appears for the second respondent.

3. The petitioner herein claims to be owner and possessor of an extent of 1.68 cents of land in Sy.No.112/2 situated at Indukurupeta village, Devipatnam Mandal, E.G. District having purchased the same by way of registered sale deed dated 18.03.1963 bearing Doc.No.344/1963 from one Pullam Veeraiah, a non-tribal.

3.. Earlier, the Deputy Collector, Tribal Welfare, East Godavari District, Kakinada initiated proceedings under the Provisions of the A.P. Scheduled Areas Land Transfer Regulations, 1959 (hereinafter called 'the Regulations'), in respect of the subject lands on the complaint made by the Special Deputy Collector, Tribal Welfare, Rampachodavaram and passed an order in LTRP.No.346 of 1976, dated 03.02.1979, dismissing the said claim.

By virtue of the notice under challenge in ADO LTR No.75/2007, the first respondent Agency Divisional Officer, Rampachodavaram, E.G. District asked the petitioner to appear for enquiry. The said proceedings are under challenge in the present writ petition.

4. It is the principal contention of the learned counsel for the petitioner herein that the action of the respondents in initiating the impugned proceedings is obviously an attempt to review the earlier orders passed in the year 1979 in LTRP.No.346 of 1976 and according to the learned

counsel the same is impermissible and in support of the said contention, the learned counsel placed reliance on the Division Bench judgment of this Court in ***CHINTALAPATI RAMALINGA RAJU v. DISTRICT COLLECTOR, ELURU, WEST GODAVARI DISTRICT***^[1]. In the said judgment, this Court at paragraphs 2 and 3, held as under:

“2. The matter arises under the provisions of the A.P. Scheduled Areas Land Transfer Regulations, 1959 (for short 'The Regulations'). The Learned single Judge has dismissed the writ petition on the ground that the apprehension of the petitioner may not be real. But, it is evident from the proceedings dated 4-11-1998 in Re. No.230 of 1997 (Supt.) of the Mandal Revenue Officer, Buttaigudem mandal addressed to the Special Deputy Tahsildar, Tribal Welfare, K.R. Puram that action was sought to be taken against the petitioner on the ground that the judgment rendered by the Special Deputy Collector, Tribal Welfare hitherto dated 5-9-1981 is doubtful. But, it is a well settled law that when a judgment is rendered under the Regulations, it becomes final and there is no review of the same. It is not disputed that the order dated 5-9-1981 rejecting the application for eviction of the petitioner-appellant herein on the ground that unauthorised possession was rejected and the said order had become final. It is also not disputed by the learned Government Pleader, Social Welfare that there is no review provision in the A.P. Scheduled Areas Land Transfer Regulations, 1959. In fact, that legal position is well settled by series of judgments of this Court.

3. In the circumstances, it is held that such of the survey numbers and equivalent R.S. numbers which are covered by the judgment dated 5-9-1981 passed by the Special Deputy Collector, Tribal Welfare, Eluru in SR Nos.32 of 1981 to 56 of 1981 shall not be subject matters for initiation of proceedings for eviction under the provisions of the Regulations.”

5. The principle laid down in the above referred judgment, in the considered opinion of this Court, is squarely applicable to the facts and circumstances of the case. Therefore, this Court finds absolutely no justification on the part of the first respondent in initiating proceedings once again.

6. For aforesaid reasons, the writ petition is allowed, declaring the proceedings initiated by the first respondent Agency Divisional Officer, Rampachodavaram, E.G. District for ejectment of the petitioner vide

There shall be no order as to costs.

grk

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

-
-
-
-

-
WRIT PETITION No.26610 of 2007

-
Dated 23rd June, 2016

grk

[\[1\]](#) 2000 (4) ALD 243 (DB)