

HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.16667 of 2010

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the action of the respondents in initiating proceedings under the Andhra Pradesh Scheduled Areas Land Transfer Regulations vide ADO LTRP.No.42/2008.

Heard Sri K.Venkatesh, learned counsel for the petitioner, and the learned Government Pleader for Social Welfare and perused the material available before the Court.

According to the petitioner, his father, late Sri Sattiraju, owned an extent of Hec.1.59 in Sy.No.156/2 and Hec.0.80 in Sy.No.102/1 of Indukurupeta Village, Devipatnam Mandal, East Godavari District. It is stated that the petitioner's father passed away on 02.06.2001. It is further submitted that the petitioner's father purchased the above lands by way of registered sale deeds dated 28.06.1967. The said property is situated in the scheduled area and the petitioner is a non-tribal. It is further stated that the Director of Settlements passed an order in A.P.28/85 dated 25.07.1985 granting ryotwari patta in respect of the subject property in favour of the father of the petitioner under Andhra Pradesh (Scheduled Areas

Ryotwari Settlement) Regulation, 1970 (Regulation II of 1970) and the said order became final.

Earlier, during the life-time of the father of the petitioner herein, on the complaint made by the second respondent, the first respondent initiated proceedings, under Section 3(2) of the Andhra Pradesh Scheduled Areas Land Transfer Regulations, vide LTRP.No.303 and 327 of 1980. While holding that there was no prohibited transfer, the said proceedings were dropped. According to the petitioner, the said proceedings became final as no appeal was preferred by the second respondent.

Once again, the second respondent filed another complaint under the A.P. Scheduled Areas Land Transfer Regulations and the first respondent initiated enquiry, vide ADO LTRP.No.42/2008, in respect of the land in Sy.No.156/2 admeasuring Hec.1.95. In furtherance of the said proceedings, the Agency Divisional Officer, Rampachodavaram - first respondent issued Form - E notice. The said notice is under challenge in the present Writ Petition.

The principal contention advanced by the learned counsel for the petitioner in the present Writ Petition is that, since the earlier orders, passed against self-same property, vide LTRP.Nos.303/1980 and 327/1980, became final and as no appeal was filed against the said orders, the

said orders would operate as *res judicata*, and the authorities herein cannot be permitted to proceed once again in view of the law laid down by the Division Bench of this Court in **Chintalapati Ramalinga Raju vs. District Collector, Eluru, W.G. District**¹. In the said judgment, the Division Bench, in paragraph 2, held as under:

“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 04.11.1998 in Rc.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 5.09.1981 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 5.09.1981 rejecting the application for eviction of the petitioner – appellant herein on the ground that unauthorized 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.”

In the instant case, since the earlier order, dated 30.01.1982, passed by the first respondent in

¹ 2000 (4) ALD 443 (DB)

LTRP.Nos.303 and 327 of 1980 became final, in the considered opinion of this Court, the first respondent once again cannot be permitted to proceed with the enquiry in respect of the same lands.

For the aforesaid reasons, the Writ Petition is allowed setting aside the proceedings initiated by the first respondent vide ADO LTRP.No.42/2008.

Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI,J

Date: 27.12.2016
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