

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

WRIT PETITION No.33833 OF 2010

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ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the action of the respondents 2 and 3 in initiating the proceedings under the provisions of the A.P. Scheduled Area Land Transfer Regulations.

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

3. The Special Deputy Collector (Tribal Welfare), Rampachodavaram - 2nd respondent herein, issued notices to the petitioners herein in '*Form - E*' under the provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulations, asking the petitioners to appear for enquiry under the said regulations. The said notices issued by the Special Deputy Collector (Tribal Welfare) are under challenge in the present writ petition.

4. As evident from the material available before this Court, there are two contentions raised principally and they are:

1. The respondents cannot initiate the proceedings under the provisions of the A.P. Scheduled Areas Land Transfer Regulations, as the subject properties are house properties.
2. Since there is no element of transfer in the instant cases, the provisions of

Section 2(g) of A.P. Scheduled Area Land Transfer Regulations cannot be made applicable and no enquiry can be initiated.

5. According to Section 2(d) of the Regulations, '*Immovable Property*' includes standing crops, timber and trees, but does not include growing grass. This Court had an occasion to deal with the issue and in the judgment in ***Pingili Pratap Reddy Vs. Dandu Pullam Raju***^[1], this Court held that the '*Immovable Property*' includes land and house property. Therefore, the first contention advanced in the present writ petition cannot be sustained and is accordingly rejected.

6. With regard to the second contention that there is no transfer as defined under Section 2(g) of the Regulations - whether there is a transfer or not and whether the cases of the petitioners fall under the definition of 'transfer' as defined under Section 2(g) of the Regulations, cannot be decided by this Court in exercise of the powers conferred under Article 226 of the Constitution of India- as the said enquiry requires thorough factual verification. Since the respondents herein initiated enquiry, by virtue of the impugned notices, this Court deems it appropriate to permit the respondents to proceed in accordance with the provisions of Land Transfer Regulations and pass final orders in the matter. It is also open for the petitioners herein to place the material available, before the enquiring authority - 2nd respondent herein in support of their contentions and submission.

7. For the aforesaid reasons, Writ Petition is disposed

of, directing the 2nd respondent to proceed with the enquiry pursuant to the 'Form - E' notices in respect of the subject property and pass appropriate orders, after giving notice and opportunity of hearing to all the stake holder, within a period of three months from the date of receipt of a copy of this order. Till such exercise attains finality, *status quo* as on today with regard to the subject property shall be maintained.

8. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

21.06.2016
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[\[1\]](#) 1989 (3) ALT 319 (D.B)