

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

WRIT PETITION No.24205 of 2016

01.12.2016

Between:

P.Balanna and others

..Petitioners

And

The State of Andhra Pradesh,  
represented by its Principal Secretary (Revenue),  
Secretariat, Hyderabad and others

..Respondents

Counsel for the petitioners: Mr.K.Maheswara Rao

Counsel for respondent No.1: Government Pleader for Revenue (AP)

Counsel for respondent No.2: Smt.Bobba Vijayalakshmi,  
standing counsel for High Court

Counsel for respondent No.3: --

Counsel for respondent No.4: Mr.R.Harish Kumar

The Court made the following:

ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for *certiorari* to call for records from respondent No.2 and quash the order, dated 27.05.2016, in I.A.No.785 of 2016 in O.P.No.205 of 2016.

2. I have heard Mr.K.Maheswara Rao, learned counsel for the petitioners, Smt.Bobba Vijayalakshmi, learned standing counsel for High Court appearing for respondent No.2 and Mr.R.Harish Kumar, learned counsel for respondent No.4.

3. Petitioner Nos.1 and 2 filed O.S.No.627 of 2006 in the Court of the Principal Junior Civil Judge, Anantapuramu against respondent No.3 for grant of permanent injunction restraining him from interfering with their peaceful possession and enjoyment of the suit schedule property. While the suit was stated to be at the advanced stage of hearing, respondent No.3 approached the Vacation Judge officiating the District Court, Ananthapuramu by filing O.P.No.205 of 2016 under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (for short 'the Act'), in respect of the same schedule property. He also filed I.A.No.785 of 2016 in the said L.G.O.P. for transmission of records in O.S.No.627 of 2006 to be decided along with the L.G.O.P. By the *ex parte* order, which is impugned in this writ petition, the Vacation Judge has directed transmission of records.

4. In the present writ petition, the grievance of petitioners is that in order to frustrate the suit proceedings, respondent No.3 has devised the method of filing the L.G.O.P. and getting the suit records transmitted and that the Vacation Judge, even without issuing notice to petitioner Nos. 1 and 2, who are the plaintiffs in the suit, has passed the impugned

*ex parte* order directing transmission of records in the suit while keeping the I.A. therein pending.

5. On 22.07.2016, this Court, while ordering notice to respondent No.3, *prima facie* felt that the approach of the Vacation Judge in granting the *ex parte* order of transfer of the documents in the suit was improper. Respondent No.3 filed a counter-affidavit and also a vacate stay application. The Principal District Judge, Special Court, Anantapuramu before whom the L.G.O.P. is pending has also filed a counter-affidavit on behalf of respondent No.2, wherein, it is, *inter alia*, stated that the impugned *ex parte* order was passed by one D.Ramulu, who was the Vacation Civil Judge on 27.05.2016 and that on his coming to know about the facts as mentioned in this Court's order, dated 22.07.2015, he has passed a docket order, dated 26.08.2016, suspending the impugned *ex parte* order and directing return of the suit record to the Court concerned. He has further stated that I.A.No.785 of 2016 stands posted to 05.12.2016 and that the same will be disposed of on merits.

6. Though this Court is not happy with the way the Vacation Judge has passed the impugned *ex parte* order directing transmission of records in a suit which is ten years old, in view of the remedial steps taken by the Principal District Judge, Special Court, Anantapuramu, we intend to close the issue.

7. Accordingly, the Writ Petition is disposed of by placing on record, the fact reported by respondent No.2 through the Principal District Judge, Anantapuramu that the record in O.S.No.627 of 2006 has already been returned to the Court concerned and that I.A.No.785 of 2016 will be disposed of on merits.

8. As a sequel to disposal of the writ petition, W.P.M.P.No.29830 of 2016 and W.V.M.P.No.4503 of 2016 shall stand disposed of as infructuous.

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C.V.NAGARJUNA REDDY, J

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M.S.K.JAI SWAL, J

01<sup>st</sup> December, 2016  
GHN

