

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.17557 of 2011

ORDER:

This writ petition is filed challenging the proceedings of the 2nd respondent in ROC.No.43 of 2011, dated 18-06-2011 purporting to exercise powers under the provisions of Regulation 1 of 1959 as amended by Act 1 of 1970. The petitioner specifically raised issue that the 2nd respondent has no jurisdiction to initiate proceedings under the provisions of A.P. Schedule Areas Land Transfer Regulation, 1959 as amended by Act 1 of 1970.

Learned counsel for the petitioner submits that as per regulation 3 (2) (a) of 1970, the 2nd respondent has no power to initiate any proceedings and though, the same was also asserted in the writ petition in para No.7 of the writ affidavit, the said issue is not controverted in the counter affidavit and additional counter filed by the 4th and 2nd respondent.

Learned Assistant Government Pleader for the 2nd respondent has also not disputed the contentions of learned counsel for the petitioner that the 2nd respondent has no power to entertain the claim filed by the 4th respondent under Regulation 1 of 1970, it is the Special Deputy Collector, Tribal Welfare who can exercise power

under Regulation 3(2) (a) and learned counsel for the 4th respondent has also not disputed the same.

Regulation 3 (2) (a) reads as follows:

“Where a transfer of immovable property is made in contravention of sub-section (1), the Agent, the Agency Divisional Officer or any other prescribed Officer, may on application by any one interested, or on information given in writing by a public servant, or suo motu decree ejectment against any person in possession of the property claiming under the transfer, after due notice to him in the manner prescribed and may restore it to the transferor or his heirs.”

Agent and Agency Divisional Officer is defined under Regulation 2 (b) and (c) as follows:

‘Agent’ means the person designated by the State Government as an “Agent to the Government” in the districts of East Godavari, West Godavari, Visakhapatnam, Srikakulam, Adilabad, Warangal, Khammam or Mahaboobnagar as the case may be.

‘Agency Divisional Officer’ means the person designated by the State Government as “Agency Divisional Officer” for the purposes of this Regulation.

A clear reading of Regulation 3 (2) (a), and Regulation 2 (b) and (c) goes to show that the 2nd respondent is not conferred with the power to initiate proceedings under Regulations. It is also not the case of respondents that the 2nd respondent is designated to exercise the power under Regulations. Though the other contentions are raised, since the 2nd respondent lacks jurisdiction, this Court need not to go into other

issues. Once the 2nd respondent has no jurisdiction, he has no power to initiate proceedings and pass orders under the Regulations.

In view of the same, the impugned order is set aside on the ground of lack of jurisdiction on the part of the 2nd respondent.

Accordingly, the writ petition is allowed. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

07-11-2016
nvl



A.RAJASHEKER REDDY,J



