

THE HON'BLE SRI JUSTICE A.V. SESA SAI
WRIT PETITION No.27131 of 2015

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the order passed by the Additional Agent to the Government & Project Officer, ITDA, Badrachalam, Khammam District/first respondent herein in C.M.A.No.116 of 2003, dated 05.03.2005.

2. The Special Deputy Collector (Tribal Welfare), Paloncha, Khammam District, passed an order on 27.11.1992 in LTR Case No.205/87/MGR, dropping further proceedings under the Land Transfer Regulations in favour of the petitioner herein and against the father of respondent No.4. Aggrieved by the said order, the 4th respondent herein filed CMA.No.116/2003 before the first respondent Additional Agent to the Government and Project Officer, ITDA, Badrachalam, Khammam District. The first respondent vide orders dated 05.03.2005, allowed the CMA.No.116 of 2003, while directing the Mandal Revenue Officer, Manuguru to take possession of the subject property and to induct 4th respondent into the land physically under the cover of panchanama. Assailing the validity of the said order passed by the first respondent Additional Agent to the Government, the present writ petition came to be filed.

3. This Court, while ordering *Rule Nisi* on 20.12.2015, granted interim suspension of the said order passed by the second respondent in WPMP.No.34850 of 2005.

4. A counter affidavit is filed by the first respondent Additional Agent to the Government & Project Officer, ITDA Badrachalam, Khammam District, denying the averments and allegations made in the affidavit filed in support of the writ petition and in the direction of justifying the impugned action.

5. It is submitted by the learned counsel for the petitioner that the order passed by the first respondent is highly illegal, arbitrary and opposed to

the very spirit and object of the Land Transfer Regulations and also contrary to the material available on record.

6. On the contrary, reiterating the averments made in the counter affidavit, learned Government Pleader seeks to justify the impugned order by contending that there is no illegality nor there is any procedural infirmity in the impugned action. It is the further submission of the learned Government Pleader that only after thoroughly and meticulously considering the entire material available on record, the first respondent passed the order under challenge. It is also the objection of the learned Government Pleader that in view of availability of alternative remedy of revision under Regulation 6 of the A. P. Scheduled Areas Land Transfer Regulation, 1959 the present writ petition cannot be maintained before this Court. It is also the submission of the learned Government Pleader that various factual controversies are required to be gone into and the same cannot be verified under Article 226 of the Constitution of India.

7. Since it is the primary objection of the learned Government Pleader that in view of the availability of the alternative remedy of revision, the present writ petition is not maintainable, this Court deems it appropriate to consider the same. Regulation No.6 of the A. P. Scheduled Areas Land Transfer Regulation, 1959, reads as under:

“6. Revision:-

The State Government may revise any decree of order passed by the Agent, the Agency Divisional Officer or any other prescribed officer under this Regulation;

Provided that this power shall be exercised only after due notice to the parties affected by the decree of order and after giving them a reasonable opportunity of being heard.”

8. A reading of the above provision of law makes it manifest that as against any order passed by the agent to the Government, revision lies to the State Government. In the instant case, the petitioner without availing the effective and alternative remedy of revision filed the present writ petition directly before this Court under Article 226 of the Constitution of

India. Therefore, this Court deems it appropriate to relegate the petitioner to the said alternative remedy of revision.

9. For the aforesaid reason, the writ petition is disposed of, permitting the petitioner herein to file a revision against the order passed by the first respondent in CMA.No.116 of 2003 dated 05.03.2005, within a period of one month from the date receipt of this order. If any such revision is filed, the same shall be considered and appropriate orders be passed as expeditiously as possible in accordance with law, after giving notice and opportunity to all the stake holders. Till such exercise attains finality, the interim order granted by this Court on 20.12.2005 in WPMP.No.34850 of 2005 shall continue. It is made clear that in the event of failure to avail the remedy of revision within the time as stipulated above, it is open for the respondents to proceed in accordance with law and in terms of the orders impugned in the present writ petition. As a sequel, miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V. SESA SAI, J

Date:17.6.2016

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

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Dated 17th June, 2016

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