

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

WRIT PETITION No.23518 of 2007

ORDER

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“..to issue an appropriate writ, order or direction, particularly one in the nature of Mandamus, declaring the G.O.Ms.No.34, Social Welfare (LTR-2) Department dt.17.05.2007 of the 1st respondent herein confirming the orders dated 15.03.2003 in C.M.A.No.61 of 1998 of the 2nd respondent herein and also the order dated 10.07.1998 in LTR Case No.324/92/APM of the 3rd respondent herein, as illegal, arbitrary, unreasonable, and contrary to the provisions of A.P. Scheduled Area Land Transfer Regulation and the Rules made thereunder and also violative of Articles 14,21 and 300-A of the Constitution of India and issue a consequential direction to the respondents herein not to give effect to the same and pass such other order or orders”.

2. According to the petitioner, she is the owner and possessor of the land admeasuring Ac.9.13 gts in Sy.No.468 of Aswapuram Village and Mandal, Khammam District, and her father-in-law purchased the same from the 4th respondent on 13.04.1968 and earlier, her father-in-law was in possession and enjoyment and after his death, the petitioner is in possession and enjoyment of the said land.

3. Heard learned counsel for the petitioner and learned Government Pleader for respondents 1 to 3.

4. The Special Deputy Collector, Tribal Welfare, Paloncha, Khammam District, third respondent herein, on the report of the Special Revenue Inspector (CAP) Aswapuram, pressed into service the provisions of Andhra Pradesh Scheduled Areas Land

Transfer Regulation and passed an order of ejectment vide LTR Case No.324/92/APM dated 10.07.1998 against the petitioner under sub-section 2(a) of Section 3 of Regulation I of 1959. As against the said order, petitioner filed an appeal in C.M.A.No.61 of 1998 before the second respondent and the second respondent vide order

dated 15.03.2003 dismissed the said appeal. The State Government vide G.O.Ms.No.34 Social Welfare (LTR-2) Department dated 17.05.2007 dismissed the revision filed by the petitioner and the orders of the primary and the appellate authorities and the order in revision are under challenge in the present writ petition.

5. On 06.11.2007, this Court, while ordering notice before admission, granted *status quo* with regard to the possession of the land in question situated in Sy.No.468 admeasuring Ac.9.13 gts of Aswapuram Village and Mandal, Khammam District, and the said order is still subsisting.

6. According to the learned counsel for the petitioner, the orders impugned are not tenable and opposed to the very spirit and the object of the Land Transfer Regulations and the exercise undertaken by the authorities is totally one without jurisdiction. In support of his submissions and contentions, learned counsel placed reliance on the Full Bench judgment of this Court in **Gaddam Narsa Reddy V. Collector, Adilabad District**^[1].

7. Per contra, learned Government Pleader for Social Welfare vehemently contends that there is no illegality nor there exists any perversity in the impugned orders and the concurrent finding of facts recorded by the authorities is not amenable for the judicial

review under Article 226 of the Constitution of India in the absence of any perversity.

8. In the above background, now the issue that emerges for consideration is;

Whether the orders passed by the respondents are sustainable and tenable in view of the law laid down by this Court in **Narsa Reddy's** case (1 supra) ?

9. **Point:**

The principal contention advanced by the learned counsel for the petitioner is that the exercise undertaken by the authorities is totally one without jurisdiction and is in contravention of the law laid down by the Full Bench of this Court in **Narsa Reddy's** case (1 supra). Therefore, it would be appropriate to refer to the said judgment rendered by this Court. In the said judgment, the Full Bench of this Court in paragraphs 30, 31(3) held as under;

“**30.**The question whether transfers made prior to the coming into force of the amending Regulations II of 1963 and I of 1970 are not valid either for want of registration under the Indian Registration Act or for non-compliance of the provisions of Section 47 or Sec.50-B of the Hyderabad Tenancy and Agricultural Lands Act and whether the transferee would be entitled to the protection of Section 53-A of the Transfer of Property Act, can only be gone into in a forum constituted for deciding such questions in respect of lands in scheduled areas.

31(3).The validity or otherwise of the transfers made prior to S.3(1) or its amendments by Regulation II of 1963 or I of 1970, coming into force, cannot be adjudicated upon under S.3(2) of the Regulation and the same has to be challenged in an appropriate forum constituted for deciding disputes relating to immovable property situate in Schedule Areas”.

10. In the considered view of this Court, the principle laid down in the above referred judgment mentioned above is squarely applicable to the case on hand.

11. For the aforesaid reasons, the Writ Petition is allowed, setting aside the order impugned. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A. V. SESA SAI, J

28th June, 2016

sj

[\[1\]](#) AIR 1982 AP 1