

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION NO.534 OF 2008

ORDER:

The petitioner is a non-tribe and resident of Bhadrachalam village, Khammam District. The land possessed by the petitioner never belongs to any tribal. The petitioner claims that his fore fathers were in occupation of an extent of 642 square yards (0.13 cents) in Bhadrachalam in R.S.No.22 and he constructed a residential house and residing with his family. While so, on a report submitted by the M.R.O., L.T.R.No.07/2004/BCM was registered against the petitioner and 4th respondent on the ground that a transfer took place between the petitioner and the 4th respondent violating the provisions of the A.P. (Scheduled Areas) Land Transfer Regulation 1 of 1970. The 4th respondent appeared before the Agency Divisional Officer and denied the transfer. In spite of the same, an order was passed on 27-04-2007 ordering ejectment of the petitioner from the said land. Against the said order, the petitioner filed statutory appeal before the Additional Agent to the Government, P.O., ITDA, Bhadrachalam, in C.M.A.No.237 of 2007 and sought stay of execution in I.A.No.82 of 2007. The appeal was admitted on 11-10-2007 and interim stay of operation of orders was passed for a period of three months. The counsel for the appellant argued the appeal and the appeal was reserved for judgment. In the meanwhile, the 3rd respondent came to the site on 12-01-2008 and conducted panchanama on the ground that the stay order granted was only for a period of three months and it was lapsed on 11-01-2008 and took paper possession of the property. Challenging the same, the present writ petition is filed.

2. This Court while admitting the writ petition on 17-01-2008 granted the following order.

“There shall be interim suspension of the eviction order passed by the Agency Divisional Officer, Bhadrachalam. Further, it is stated that in the appeal filed by the petitioner, interim orders were passed on 11th of October, 2007 for a period of three months and even the appeal itself was heard on 29th of December, 2007 and orders are reserved.

In this view of the matter, the panchanama conducted to take over the petition schedule property shall also stand suspended. Petitioner shall be allowed to continue with his possession over

the petition schedule property pending further orders.”

3. In view of the above order, the petitioner continues to be in possession of the property. But, the learned counsel for the petitioner submits that in view of ratio laid down by this Court in **MAMILLAPALLI CHINAKOTESWARA RAO AND OTHERS V MANDAL REVENUE OFFICER, BUTTAGUDEM MANDAL, W.G. DISTRICT AND OTHERS**^[1], the 3rd respondent cannot conduct panchanama and take possession of the property without executing the order like a decree of ejectment passed by the civil Court. Since, the panchanama itself was suspended by this Court and the arguments in appeal were heard by the Additional Agent to the Government, the said issue need not be decided. But, in view of suspension of the panchanama, the panchanama, which was conducted on paper has become infructuous.

4. Accordingly, the writ petition is allowed and the 2nd respondent is directed to pronounce the order on the basis of the arguments already heard. If the 2nd respondent needs further arguments, an opportunity of hearing shall be given to the petitioner and pass appropriate orders in accordance with law within a period of three months from the date of receipt of a copy of this order. No order as to costs. Miscellaneous petitions, if any pending in this petition shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 01-04-2016

Hsd

^[1] 2005(5) ALD 126