

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

WRIT PETITION No.8897 of 2008

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“to issue writ of mandamus to direct the respondents herein not to physically evict the petitioner from his agricultural land to the extent of 9 acres 19 guntas situated in Sy.No.17 of Pippaldhari village, Mandal and District Adilabad and declare the ejectment order and decree passed by the respondent No.1 in case No. TW A1/913/1996, dated 01.05.2007 is illegal, arbitrary, violative of article 14 and 21 of the Constitution of India, and against the principles of natural justice.”

Heard, Sri S. Chandra Sekhar, learned counsel for the petitioner and learned Government Pleader for Social Welfare for the official respondents.

According to the petitioner, his later father Sri B. Linganna was the absolute owner and exclusive possessor of agricultural land, admeasuring Ac.9-19 guntas situated in Sy.No.17 of Pippaldhari village, Adilabad Mandal and District and the said property is their ancestral property. It is further stated that the said Linganna, father of the petitioner, passed away on 20-09-2006 leaving behind the petitioner and his four other brothers. It is further pleaded that when the father of the petitioner was alive and when he was suffering from ill-health, the petitioner's family gave the said land for one or two years on lease to one Bhagath Punaji, according to the usage of their village and they never sold the said property to the said person.

According to the petitioner, in response to a notice given by the 1st respondent – Special Deputy Collector, his father submitted a reply stating that he had not alienated the subject property to anybody and the petitioner's family members were under the impression that the case was closed. It is further stated that in the month of February, 2008 the village patwari informed that the 1st respondent passed an ejectment order and he had to take possession of the subject land. It is also stated that the petitioner herein obtained a copy of ejectment order passed by the 1st respondent vide case No.TW A1/913/1996, dated 01-05-2007. According to the petitioner, he submitted an application on 16-04-2008 requesting the respondents to issue a certified copy of the judgment and panchanama in the above said case so as to enable the petitioner to prefer a statutory appeal before the 2nd respondent – the Agent to Government. It is also stated that on 11-04-2008 the petitioner herein submitted a representation before the 2nd respondent requesting to set aside the order of ejectment. In the above background, the present writ petition came to be filed.

This Court, while ordering notices on 22-04-2008 passed an interim order, directing not to evict the petitioner from the subject land. Subsequently, this Court admitted the writ petition on 19-01-2009. Responding to the *rule nisi* issued by this Court, a counter-affidavit is filed by the respondents herein, denying the averments in the affidavit filed in support of the writ petition and in the direction of justifying the impugned action. It is also stated in the said counter-affidavit that the petitioner herein submitted a petition,

requesting to issue judgment copy in the L.T.R. case on 16-04-2008 and the respondents made the judgment copy ready but the petitioner did neither attend the office nor obtained the judgment copy.

It is to be noted that the order of ejectment passed by the Special Deputy Collect – 1st respondent herein is appealable before the 2nd respondent – Agent to the Government under the provisions of A.P. Scheduled Areas Land Transfer Regulation Act, 1959.

According to the petitioner, despite his representation respondents did not furnish a copy of the ejectment order to enable him to file appeal before the 2nd respondent. While denying the same, it is stated in the counter-affidavit that despite the same being made ready the petitioner herein did not approach the respondents to take the copy. In these circumstances, this Court is of the considered opinion that the ends of justice would be served if the petitioner is asked to approach the office of the 1st respondent with a request to issue certified copy of the judgment, dated 01-05-2007 within a period of two (2) weeks from the date of receipt of a copy of this order for filing appeal before the 2nd respondent.

For the aforesaid reasons, the writ petition is disposed of, directing the petitioner herein to approach the office of the 1st respondent – Special Deputy Collector with a request to issue certified copy of the judgment in case No.TW A/913/1996, dated

01-05-2007, within a period of two (2) weeks from the date of receipt of a copy of this order and if the petitioner approaches within the time stipulated the 1st respondent shall issue a copy of the said judgment and it is open for the petitioner herein to file appeal against the said order of ejectment within a period of two (2) weeks thereafter before the 2nd respondent. If any such appeal is filed, within the said period, the same be considered and appropriate orders be passed, in accordance with law, after giving notice and opportunity of being heard to all the stakeholders. Till the said exercise attains finality, the *status quo* as on today shall be maintained. It is also made clear that if the petitioner herein does not file a statutory appeal within the time stipulated above, the order of ejectment passed by the 1st respondent stands revived.

Miscellaneous Petitions pending, if any, shall stand closed.

There shall be no order as to costs.

A.V. SETHA SAI, J

July 04, 2016

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

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