

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

W.P.No.9126 of 2011

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the action of the first respondent/Special Deputy Collector (Tribal Welfare), Rampachodavaram, East Godavari District in initiating the proceedings at the instance of the respondents 3 and 4 by issuing Form-E notice vide SDCLTR.No.9/2011. By virtue of the said Form-E notice, the first respondent sought to press into service the provisions of the A.P. Scheduled Area Land Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970 in respect of the land admeasuring 3-64 hectares in R.S.Nos.32 and 40 of Mallavaram Mamillu village, D.Bhimavaram Post, Addateegala Mandal, East Godavari District.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents 1 and 2. Despite service of notice, none appears for the respondents 3 and 4.

3. According to the petitioners, the father of petitioner No.2 was granted patta on 08.10.1975 and the same was the subject matter of an appeal bearing No.5 of 2001, filed by the Project Officer, ITDA, before the Joint Collector. The said appeal was allowed by the Joint Collector, but the said order was set aside by this Court in W.P.No.9847 of 2002. Therefore, according to the learned counsel for the petitioner, the patta granted in favour of the father of the second petitioner is intact, as such, the very initiation of the proceedings under Regulation 1 of 1959 as amended by Regulation 1 of 1970 is impermissible in view of the law laid down by this Court in *S.VENKATESWARLU v. AGENT TO THE GOVERNMENT AND*

*DISTRICT COLLECTOR*¹. A copy of the said judgment is placed on record by the learned counsel for the petitioner.

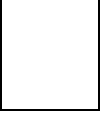
4. The factual aspects in the affidavit are not denied by the respondents by way of filing any counter nor the legal position as indicated *supra* is also not disputed. This Court, having perused the above said judgment, is of the opinion that the issue in the present writ petition is squarely covered by the principle laid down in the above referred judgment and the first respondent herein cannot proceed further with the impugned action.

5. For the aforesaid reasons, the writ petition is allowed, declaring the proceedings initiated by the first respondent by way of Form-E notice vide SDCLTR.No.9/2011 in respect of the land admeasuring 3-64 hectares in R.S.Nos.32 and 40 of Mallavaram Mamillu village, D.Bhimavaram Post, Addateegala Mandal, East Godavari District cannot be sustained in the eye of law and accordingly the same are declared as illegal and impermissible. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No costs.

Date:25.10.2016
grk

A.V.SESHA SAI, J

¹ 2013 (3) ALD 516



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Dated 25th October, 2016