

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.1055 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking to declare the action of respondents 3 & 4 in serving only Ejectment Decree and Order, dated 27.08.2016, in Case No.TWA1/459/2007 in Form-F under Rule 8(4) of AP Scheduled Area Land Transfer Rules 1969 instead of serving both Ejectment order and Decree passed by the 3rd respondent under Section 3(2) of A.P. Scheduled Area Land Transfer Regulations, 1959, amended by Regulation 1 of 1970 and to declare the action of respondents 3 & 4 in taking steps for taking possession of land of the petitioner in Survey No.22, to an extent of Ac. 1.93 cents, situated at Rajampet Village, Asifabad Mandal, Kumram Bheem Asifabad District (Erstwhile Adilabad District) into Government custody pursuant to the order passed by the 3rd respondent under Regulation 3(3) of A.P. Scheduled Areas Land Transfer Regulations 1995 amended by Regulation 1 of 1970, dated 27.08.2016, alleging the contravention Sub-Section 1 of Section 3 of the Regulations, as illegal and arbitrary.

Heard and perused the material available on record.

The case of the petitioner is that the petitioner is the owner and possessor of the agricultural land in Survey No.22, admeasuring to an extent of Ac. 1.93 cents, situated at Rajampet Village, Asifabad Mandal, Kumram Bheem Asifabad District. A family partition had taken place on 01.02.1967 between the grandfather of the petitioner and the grandfather of the 5th respondent and that the property in Survey No.22, admeasuring to an extent of Ac. 2.03 cents fell to the share of the petitioner's grandfather and subsequently, the petitioner's father

succeeded the same and subsequently, the petitioner along with five brothers partitioned the said property.

The grievance of the petitioner is that the 3rd respondent registered a case as TWA1/459/2007 and issued a notice, dated 10.06.2016, directing the petitioner to present in the office of the 3rd respondent on 18.06.2016, but in spite of the fact that the petitioner appeared before the 3rd respondent and produced all the pahanies and also the family settlement, dated 01.02.1967, the 3rd respondent issued an Ejectment Decree and order in the said case, dated 27.08.2016, in Form-F under Rule 8(4) of the A.P. Scheduled Areas Land Transfer Rules, 1969, through the 4th respondent on 03.01.2017 for taking possession of the subject land of the petitioner and that no copy of the said order was sent to the petitioner and that the petitioner was not aware of passing of any order by the 3rd respondent under Regulation 3(2) of the A.P. Scheduled Areas Land Transfer Regulations, 1959, amended by Regulation 1 of 1970 and that the respondent authorities are trying to evict the petitioner from the subject property on the basis of the said impugned order.

Learned counsel for the petitioner submitted that the petitioner is entitled to file an appeal under Regulation 3(3)(a) of the A.P. Scheduled Area Land Transfer Regulations, 1959, amended by Regulation 1 of 1970 read with Rule 8(1) of the A.P. Scheduled Areas Land Transfer Rules, 1969 and that the appeal shall lie to the Agent to Government i.e., the 2nd respondent herein and that the respondent authorities have not served the copy of the order passed by the 3rd respondent on 27.08.2016 to the petitioner, but served only Ejectment decree and order, dated 27.08.2016, in Form-F for taking possession of the subject property into Government custody on 03.01.2017 and that unless a copy of the order issued by the 3rd respondent is supplied to the petitioner, the petitioner

cannot invoke the jurisdiction of the Appellate authority for filing an appeal.

Considering the said facts and circumstances and the submissions of the learned counsel for the petitioner, the Writ Petition is disposed of with the following direction:

The petitioner is directed to approach the 3rd respondent and obtain the copy of the order, dated 27.08.2016, passed in Case No.TWA1/459/2007 and after obtaining the said order, the petitioner shall prefer an appeal before the 2nd respondent on or before 10.02.2017, in which event, the 2nd respondent is directed to dispose of the said appeal within a period of three (3) months thereafter.

Accordingly, the Writ Petition is disposed of. No costs. Pending Miscellaneous Petitions, if any, shall stand closed.



RAJA ELANGO,J

Date: 6th January, 2017

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