

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.8815 of 2009

ORDER:

This writ petition is filed under Article 226 of the Constitution of India challenging order dated 06.11.2008 passed by the 3rd respondent vide Lr.No.7115/ LTR2/ 2008.

The case of the petitioner is as follows:

The petitioner along with Adduri Anantha Venkata Tirupathi Raju S/o Lakshmi pathi Raju has been in possession and enjoyment of land of an extent of Acs.31.20 cents in Sy.No.56, Acs.9.00 in Sy.No.55, Acs.3.10 cents in Sy.No.58/ 1, Acs.2.90 cents in Sy.No.58/ 3 situated in Yellavaram, Yellavaram Panchayat, Prathipadu Sub-Division, East Godavari District. They purchased the said land from one Datla Veera Raghava Raju, S/o Venkata Subba Raju under agreements of sale dated 03.02.1969 and subsequently, they got executed registered sale deeds dated 30.11.1971 in their favour. Even though the land in question is in agency area, the transaction took place between two non-tribals prior to enforcement of Regulation 1 of 1970. While so, the Special Deputy Tahsildar, Addateegala filed a case in LTRP No.126 of 2002 before the Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District under Section 3 (1) of the A.P. Scheduled Areas Land Transfer Regulation, 1959 as amended by Regulation 1 of 1970 for ejection from the subject land and for restoration of the said land to the State Government. After service of notice, the petitioner and the said Tirupathi Raju filed objections stating that the agreements of sale were executed prior to 03.02.1970 and hence, the transfer is not hit by Section 3 (1)(a) of the Regulation. The Special Deputy Collector, Tribal Welfare ordered ejection. Aggrieved by the same, the petitioner and

the said Tirupathi Raju filed CMA No.31 of 2003 before the Additional Agent to the Government, Rampachodavaram. The said appeal was dismissed on 04.04.2008. Then, they filed a revision along with miscellaneous application for stay of ejection before the 3rd respondent. While the said application was pending, the respondents threatened to evict them. Then, the petitioner filed W.P.No.18811 of 2008. The said Writ petition was disposed of on 29.08.2008 directing the 3rd respondent to dispose of the revision and further directing the parties therein to maintain status quo till then. While so, the 3rd respondent without affording any opportunity to the petitioner passed the impugned order dated 06.11.2008 rejecting the revision filed against the order in CMA No.31 of 2003 dated 04.04.2008. Aggrieved by the same, the petitioner filed this writ petition.

While admitting the writ petition, this Court passed interim order directing the parties on record to maintain status quo.

Heard and perused the material available on record.

The main grievance of the petitioner is that the 3rd respondent passed the impugned order in the revision filed by the petitioner without giving any notice and without affording any opportunity to him.

Considering the facts and circumstances of the case and the grievance of the petitioner, without expressing any opinion on merits, this Court is inclined to pass the following order:

“The impugned order passed in revision viz., Lr.No.7115/ LTR2/ 2008 dated 06.11.2008 by the 3rd respondent is set aside and the matter is remanded to the 3rd respondent to dispose of the revision afresh after giving a notice and an opportunity to the

petitioner and others. Till then, all the parties shall maintain status quo in respect of the subject land.”

With the above direction, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

July 31, 2017
KTL

RAJA ELANGO, J



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Date: July, 2017

Ktl.