

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.3440 OF 2008

ORDER:

The case of the petitioner is that originally lands in Sy.No.11 admeasuring Ac.2-38 guntas and Ac.2-04 guntas in Sy.No.12 situated at Ramanujavaram Village belonged to one Datla Suryanarayana Raju. He sold the property by way of registered sale deed to one Yella Reddy on 11-08-1968 vide document No.497/B. Thereafter, the father of the petitioner by name Peda Venkat Reddy had purchased the same from the said Yella Reddy by unregistered sale deed on 27-12-1968. Since then, the petitioner's family had been in possession and enjoyment of the same. During the family partition, said property has been fallen to the share of the petitioner and he had been in possession and enjoyment of the same since then. It is stated that in the year 1993, proceedings were initiated under the provisions of A.P.Schedule Areas Land Transfer Regulation 1 of 1959 in case No.956/93/MGR before the 1st respondent against the petitioner alleging that the petitioner is in possession of tribal land and the same was contested by him and the order dated 18-09-1993 has been passed holding that transfer of land has taken place in between tribals and non-tribals prior to enforcement of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of 1959 as amended by 1 of 1970. Thereafter, the Mandal Revenue Officer, Manuguru had

issued proceedings dated 25-11-1994 under Section 5A and rule 4 of A.P.Record of Rights and pattadar Passbooks Act validating the sale deeds by mutating the name of the petitioner in revenue records after verifying the stamp duty paid by him. Basing on the impugned order dated 22-12-2007 passed by the 1st respondent ordering eviction against one Thumma Reddy in respect of the very same land owned by the petitioner, the respondents are trying to evict the petitioner. Aggrieved by the said orders, the present writ petition is filed.

Heard learned counsel for the petitioner.

Though the writ petition is of the year 2008 and though interim order is passed on 21-02-2008, no counter affidavit is filed.

Heard the learned Assistant Government Pleader for Social Welfare who sought time for filing counter, but the same is refused as writ petition pertains to the year 2008.

It is to be seen that a reading of the order dated 18-09-1993 in case No.956/93/MGR passed by the 1st respondent goes to show that the proceedings were initiated under A.P.Scheduled Areas Land Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970 basing on the report of Special Deputy Tahsildar, Tribal Welfare Paloncha and the same was dropped in favour of the petitioner by order dated 18-09-1993. Thereafter, the proceedings were issued on 25-11-1994 by the Mandal Revenue Officer, Manuguru

validating the sale made in favour of the petitioner under Section 5A of A.P.Rights in Land and Pattadar Passbooks Act. The petitioner has placed the validation orders under Form-13 B in the material papers and it is stated that the petitioner was also issued pattadar passbooks and title deeds and now without issuing notice to the petitioner, proceedings are initiated in Case No 1529/93/MGR basing on the report of Special Deputy Tahsildar, Tribal Welfare, Paloncha and the 1st respondent had passed order of eviction in respect of very same land, which was the subject matter of above case under Regulation 1 of 1959 as amended by Regulation 1 of 1970. Learned counsel for the petitioner submits that the petitioner was not issued any notice. He also submits that one Mettu Thumma Reddy has not appeared in the matter and exparte order of eviction was passed vide proceedings dated 22-12-2007 stating that there is violation of Sub-Section-2(a) of Section-3 of Regulation 1 of 1959 as mended by Regulation 1 of 1970 and ordered ejectment of respondent therein or whomever is in possession of the subject property. A reading of impugned order goes to show that the petitioner is not made as party and obviously no notice was issued to the petitioner, which is in violation of principles of natural justice. Earlier proceedings, which were initiated against the petitioner, were dropped by order dated 18-09-1993 and the petitioner stated that said order has become final. When once the said order has become final

and the petitioner was issued pattadar passbooks and title deeds, there is no reason to initiate proceedings against the very same land and the impugned order also does not speak that any new grounds exist for initiating proceedings in respect of the very same land. As eviction order also states that subject property has to be put into Government custody under the cover of panchanama and assign the same to eligible Tribals as per rules in force and that order was stayed on 21-02-2008 by this Court, there is no reason for the 1st respondent to initiate proceedings once again and pass impugned orders and when the proceedings against the petitioner were already dropped in case No.956/93/MGR by order dated 18-09-1993.

In view of the above facts and circumstances of the case, the writ petition is allowed. There shall be no order as to costs. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

13-07-2017

Nvl

