

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.1935 OF 2018

ORDER:

This writ petition is filed under Article 226 of the Constitution of India for the following relief:-

“to issue a Writ, Order or Direction more particularly one in the nature of WRIT OF MANDAMUS to declare the action of the 2nd respondent in not passing stay order on the petitioner’s stay petition in pending appeal dated 8-1-2018 on his file, assailing the order dated 27-10-2017 in SR No.10/2015 passed by the 3rd respondent as illegal, arbitrary to the provisions of Regulation 1/70 and consequently direct the 3rd respondent not to evict/dispossess the petitioner from the agricultural land to an extent of Acres 2-01 cents in RS No.232/2 of Lakshmugudem Village, Buttaigudem Mandal, West Godavari District.”

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Tribal Welfare (A.P.) appearing for respondent Nos.1, 2 and 3.

3. According to the petitioner, his father purchased an extent of Ac.2.01 cents of agricultural land in R.S.No.232/2 of Lakshmudugudem, Buttaigudem Mandal, West Godavari District by way of a possessory agreement of sale, dated 05.06.1969, from its lawful owner viz., one Sri Chilantala Rao Ramaswamy by paying full sale consideration and obtained the possession of the property. It is further submitted that the petitioner’s father got the same registered by way of a registered sale deed *vide* document No.1554/1974, dated 06.07.1974. The Special Deputy Collector, respondent No.3 herein, pressed into service the provisions of the

Andhra Pradesh Scheduled Areas Land Transfer Regulations, 1959 and passed an order, dated 27.10.2017, in S.R.No.10/2015, ordering ejectment of the petitioner herein from the subject property. The Special Deputy Collector, as a consequence of the above order, issued Form-F also, asking the Tahsildar, Buttaigudem to assign the land to the eligible landless poor tribes by removing any person bound by the decree. Assailing the validity and legal sustainability of the said order, the petitioner herein filed a statutory appeal before the Additional Agent to the Government, respondent No.2 herein, on 08.01.2018. Along with the said appeal, he also filed an application seeking stay of all further proceedings including dispossession of the petitioner from the subject land.

4. According to the learned counsel for the petitioner, no orders have been passed so far on the stay application or in the appeal filed by the petitioner herein. It is the further submission of the learned counsel that now, the respondent authorities are actively contemplating to dispossess the petitioner herein from the schedule land. It is also the submission of the learned counsel that earlier also, the respondent authorities initiated action under the provisions of the Andhra Pradesh Scheduled Areas Land Transfer Regulations, 1959 and the Special Deputy Collector (TW), K.R.Puram rejected the claim filed by the Special Deputy Tahsildar (TW) No.I, K.R.Puram by way of an order, dated 28.12.1997. It is the further submission of the learned counsel that the repeated enquiries in respect of the self same land is impermissible and contrary to law.

5. Having heard the learned counsel for the petitioner and the learned Government Pleader, and as the appeal is the substantive remedy provided under the statute, this Court is of the considered opinion that the ends of justice would be met if respondent No.2 is directed to dispose of the appeal, dated 08.01.2018, filed by the petitioner herein by fixing some time, however, making some arrangement with regard to possession of the petitioner herein pending disposal of the same.

6. For the aforesaid reasons, the Writ Petition is disposed of, directing respondent No.2 to pass appropriate orders on the appeal, dated 08.01.2018, preferred by the petitioner herein against the orders passed by respondent No.3, dated 27.10.2017, in S.R.No.10 of 2015 within a period of three (3) months from the date of receipt of a copy of this order after giving opportunity to all the stakeholders. Till the said exercise attains finality, *status quo* with regard to possession of the petitioner herein in respect of the subject property shall be maintained. There shall be no order as to costs.

7. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 24.01.2018
AMD

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI



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AMD