

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

W.P.No.33057 of 2017

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Social Welfare, appearing for Respondents.

2. On a complaint made by the Special Deputy Collector (Tribal Welfare)-cum-Agency Divisional Officer, Rampachodavaram, East Godavari district initiated enquiry under the provisions of A.P. Scheduled Areas Land Transfer Regulation 1 of 1959 and passed an order on 19.4.2012 in L.T.R.P.No.140 of 2007, ordering ejectment of Respondents in exercise of the powers conferred under Section 3(2) of A.P. Scheduled Areas Land Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970. Aggrieved by the said orders of ejectment, the petitioners herein filed statutory appeal before the Additional Agent to Government-2nd respondent herein on 14.9.2017. Along with the said appeal, they also filed application, seeking stay of the order passed by the primary authority. According to the learned counsel for the petitioners, no orders have been passed either on the stay application or in the main appeal filed by the petitioners herein. It is also the submission of the learned counsel that in view of the absence of any orders, the respondent authorities are contemplating to dispossess the petitioners herein from the subject properties and if the same is permitted, the petitioners herein would sustain irreparable loss and hardship.

3. On the other hand, it is submitted by the learned Government Pleader that having filed appeal before the appellate authority, it is not open for the petitioners herein to file the present writ petition under Article 226 of the

Constitution of India and it is open for the petitioners to pursue the appeal before the appellate authority.

4. Since right of appeal is a substantive right and as the appeal, according to the learned counsel for petitioners, is pending consideration before the 2nd respondent-Additional Agent to the Government and as substantial rights of the parties are involved, this Court deems it appropriate to direct the 2nd respondent to pass appropriate orders on the appeal filed by the petitioners herein, while making some equitable interim arrangement in the meanwhile.

5. For the aforesaid reasons, the writ petition is disposed of, directing the 2nd respondent-Additional Agent to the Government to pass appropriate orders on the Appeal dated 14.9.2017 filed by the petitioners herein against the orders of the Primary Authority dated 19.4.2012 in L.T.R.P.No.140 of 2007, within a period of six months from the date of receipt of this order, after affording opportunity to all the stakeholders. Till the said exercise attains finality, statusquo as on today with regard to subject property shall be maintained. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 30.1.2018
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30.1.2018

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