

**HON'BLE SRI JUSTICE U.DURGA PRASAD RAO**

**WRIT PETITION No.2121 of 2008**

**ORDER:**

The petitioners seek a Writ of Mandamus declaring the action of the respondents in trying to evict the petitioners from the agricultural land admeasuring Ac.4.06 gts in Sy.No.46/1 situated at Ruyyadi Village of Talamadugu Mandal, Adilabad District even after dropping the proceedings under Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of 1959 (hereinafter referred to as Regulation 1 of 1959) as amended by Regulation 1 of 1970 by the 3<sup>rd</sup> respondent vide Case Nos.TWA2/152/97 and TWA2/153/97 dated 10.08.1997 as illegal, arbitrary and violative of Articles 14, 21, 300-A of the Constitution of India and consequently direct the respondents not to evict them from the above said land.

2a) The petitioners' case is that they are five brothers viz. G.Ganga Reddy, G.Narayana Reddy, G.Raja Reddy (1<sup>st</sup> petitioner), G.Ram Reddy (2<sup>nd</sup> petitioner) and G.Bhoja Reddy; their elder brothers purchased the agricultural land admeasuring Ac.4-06 gts. in Survey No.46/1 situated in Ruyyadi Village of Talamadugu Mandal, Adilabad District from Nimmala Ramulu and his family members in 1968 through an unregistered sale deed and ever since they are in continuous possession of the said land by paying land revenue; in family partition, the subject land fell to the share of petitioners herein; while so in 1997, the 3<sup>rd</sup> respondent initiated the proceedings under Regulation 1/1959 on the allegation that petitioners have purchased the land in contravention of

Regulation 1/1959; it is submitted that 3<sup>rd</sup> respondent conducted enquiry and after going through the oral and documentary evidence passed an order dated 10.08.1997, dropping all further proceedings; while the matter stood thus, surprisingly in the year 2003, the 4<sup>th</sup> respondent brought an ejectment order said to be passed by the 3<sup>rd</sup> respondent vide TWA 2/32/2003, dated 14.10.2003 as per which, the petitioners have to be evicted from the land; immediately they made a representation to the 4<sup>th</sup> respondent enclosing the previous order passed by 3<sup>rd</sup> respondent dated 10.08.1997 and requested him to drop all further proceedings; in that regard, the 4<sup>th</sup> respondent wrote a letter to the 3<sup>rd</sup> respondent on 01.09.2004, seeking clarification of the ejectment order dated 14.10.2003 and permitted the petitioners to continue in the land; petitioners also made a representation to the 4<sup>th</sup> respondent for issuance of pattedar pass book and title deed in respect of subject land, on which he told that after getting clarification, same will be issued to them; recently the petitioners came to know that respondents are trying to assign the said land to third parties as per the ejectment order of 3<sup>rd</sup> respondent dated 14.10.2003; immediately petitioners approached the respondents and made a representation dated 02.02.2008; at that time, they were told that there should be a prohibitory order from a competent Court of law not to evict them from the land.

Hence, the instant Writ Petition.

b) The respondents filed counter affidavit and opposed the Writ Petition.

c) It should be noted that pending writ petition petitioner Nos.1 and 2 died and their LR's were brought on record as petitioners 3 to 7 vide Court order dated 21.08.2017 in W.P.M.P.Nos.32105 and 32106 of 2017.

d) The 4<sup>th</sup> petitioner filed reply affidavit submitting that earlier the 3<sup>rd</sup> respondent by order dated 10.08.1997 dropped the proceedings vide case No.TWA2/152/1997 and TWA2/153/1997 observing that there was no contravention of provisions of Regulation 1/1959 and the petitioners have purchased the subject land on 17.04.1969 much prior to the enforcement of Regulation 1/1959 as amended by Regulation 1/1970. He submitted that 3<sup>rd</sup> respondent passed the impugned ejectment order dated 14.10.2003 on the representation said to have been made by a tribal by name Sidam Chinnu. He further submitted that they do not know who is said Sidam Chinnu and his name did not appear in any revenue records in respect of subject land and petitioners were not issued any notice before initiation of proceedings as alleged. The petitioners are in peaceful and continuous possession of land and when the respondents came to evict them from the subject land, the present writ petition is filed.

3) Heard arguments of Sri S.Chandra Sekhar, learned counsel for petitioners and learned Government Pleader for Social Welfare for respondents (Telangana).

4) As can be seen, the case of the petitioners is that they have purchased the writ petition mentioned lands of Ac.4.06 gts in Sy.No.46/1

situated at Ruyyadi Village of Talamadugu Mandal, Adilabad District from Nimmala Ramulu and his family members under an unregistered sale deed in the year 1968 and ever since they have been in possession and enjoyment of the said land. The record shows that at the instance of the said Ramulu, the 3<sup>rd</sup> respondent initiated Case Nos.TWA 2/152/97 and TWA 2/153/97 against the petitioners 1 and 2 herein wherein the said Ramulu contended that he is the owner of the said land of Ac.4-06 gts in Sy.No.46 and he mortgaged the said land to petitioners 1 and 2 and their brothers Goka Narayana Reddy and Bhoja Reddy for Rs.15,000/- about 18 years prior to the said case and he never sold the said land to them. On the other hand, the present petitioners 1 and 2 and their brothers contended that the said Nimmala Ramulu sold away the said property to them under a sada sale deed. The 3<sup>rd</sup> respondent on perusal of the record found that as per the agreement of sale dated 17.04.1969, Nimmala Lachanna and Nimmala Ramulu sold Ac.4-06gts of land in Sy.No.46 for Rs.15,000/- to the petitioners in the year 1969. The 3<sup>rd</sup> respondent further found that passbook showed that the purchaser Raja Reddy had paid LR from 1969 to 1980 in respect of Ac.4-06 gts of land in Sy.No.46 and has been cultivating the said land from 1969 onwards. On perusing the documentary evidence such as certified copies of pahanies and statements given by the parties, the 3<sup>rd</sup> respondent came to conclusion that the land bearing Sy.No.46 in an extent of Ac.4-06 gts situated at Ruyyadi was purchased by 1<sup>st</sup> petitioner in the year 1969 from the pattadar i.e, Nimmala Ramulu and Nimmala Lachanna and the sale took place on 17.04.1969 between two non-

tribals, which was prior to the enforcement of A.P.S.A.L.T Regulation 1/1959 as amended by Regulation 1/1970 and therefore, the sale transaction would not attract the provisions of the aforesaid Regulation. The 3<sup>rd</sup> respondent further observed that it was clearly established that the transfer of the suit land between one non-tribe to another non-tribe had taken place well before the crucial date of 03.02.1970 i.e, prior to the coming into force of amended Regulation 1/1970 and hence the provisions were not contravened. On such observations, he dropped all further proceedings instituted by Nimmala Ramulu.

5) Be that it may, the counter filed by the respondents in the Writ Petition would show as if, on the representation given by a tribal by name Sri Sidam Chinnu dated 07.01.2002, the 3<sup>rd</sup> respondent again initiated proceedings No.TWA2/32/2002 and issued notices to the petitioners and due to their absence, he passed an *ex parte* order for ejectment of the petitioners. The contention of the petitioners in their reply affidavit is that they do not know the said Sidam Chinnu and they also do not know under what capacity he lodged report with the 3<sup>rd</sup> respondent. Their contention is that they never received any summons from the office of 3<sup>rd</sup> respondent and therefore, they did not attend before him. In the considered view of this Court, the submission of the petitioners is true. Had they received the summons, certainly they would have attended the enquiry and submitted the copy of the earlier order in Case Nos.TWA2/152/97 and TWA2/153/97 dated 10.08.1997 passed in their favour to apprise the 3<sup>rd</sup> respondent that they did not contravene the

provisions of A.P.S.A.L.T Regulation 1/1959 as amended by Regulation 1/1970. The *ex parte* order passed by the 3<sup>rd</sup> respondent in TWA2/32/2002 is not sustainable under law, in view of the fact that in earlier proceedings in TWA2/152/97 and TWA2/153/97, the 3<sup>rd</sup> respondent had already held that the sale transaction between Nimmala Ramulu and the petitioners was a transaction between two non-tribes and there was no contravention of the provisions of A.P.S.A.L.T Regulation 1/1959 as amended by Regulation 1/1970. It is pertinent to note that in ***Gangula Kondala Rao vs. The Special Deputy Collector, Tribunal Welfare, K.R.Puram, West Godavari District and another***<sup>1</sup>, this Court observed that when once the Special Deputy Collector, has passed an order holding that there is no contravention of any of the provisions of A.P.S.A.L.T. Regulation, a regular appeal is provided for and if the respondents are so aggrieved, they should prefer an appeal against the order of the Special Deputy Collector and without preferring the appeal, the second complaint is not maintainable as the repeated initiation of the proceedings under A.P.S.A.L.T Regulation would be without jurisdiction. Except stating that on the representation of Sidam Chinnu proceedings were initiated in TWA2/32/2002 and *ex parte* orders were passed, the respondents in their counter have not explained as to what fresh evidence was produced before the 3<sup>rd</sup> respondent to overturn the earlier orders in TWA2/152/97 and TWA2/153/97. Thus at any rate, the subsequent order in TWA2/32/02 is nothing but abuse of process of the

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<sup>1</sup> Unreported judgment of this Court dated 20.06.2007 in Writ Petition No.4485 of 2000.

Court as the previous order attained finality and principles of *res judicata* would apply to the subsequent order.

6) In the result, this Writ Petition is allowed and the order dated 10.08.1997 in Case Nos.TWA2/152/97 and TWA2/153/97 passed by the 3<sup>rd</sup> respondent is set aside. No costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

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**U.DURGA PRASAD RAO, J**

Date: 26.11.2018  
Murthy/scs

