

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.2083 of 2015

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon’ble court may be pleased to issue writ or direction preferably Writ of Mandamus declaring the inaction of the respondent no.3 in disposing of the stay petition or appeal itself filed by the husband of the petitioner on 12-1-2015 against the order of respondent no.4 vide prod. RC. No. S/50/2005 dt.30-8-2007 as illegal, arbitrary, and violative of principles of natural justice and consequently direct the respondent no.3 to consider and dispose of the stay petition or appeal itself within a reasonable time and further direct the respondent nos. 2 to 4 and their subordinates not to dispossess the petitioner from the land total admeasuring Ac.1-00 cents in RS. Nos. 645/3, 645/6, 649/8, 647/10, and 646/2 situated at Mopidevi(V&M) Krishna District and pass such other or further orders as this Hon’ble court deems fit and proper in the circumstances of the case.”

2. I have heard the submissions of Sri Kowturu Vinaya Kumar, learned counsel appearing for the petitioner, and of the learned Government Pleader for Revenue (A.P.) appearing for the respondents 1 to 4. I have perused the material record and I have given earnest consideration to the submissions made in line with the pleadings and also the contents of the material documents.

3. The facts and aspects, which are necessary for consideration and which are discernible from the pleadings and submissions are as follows: The land in an extent of Ac. 1.20 cents in R.S.No.645/3 was originally assigned to an assignee. The husband of the petitioner appears to have purchased the same. The present writ petition is filed seeking a writ of mandamus declaring the inaction

of the 3rd respondent in disposing of the application filed for grant of stay and also the appeal filed by the petitioner, on 12.01.2015, against the order of the 4th respondent, dated 30.08.2007, in RC.No.S/50/2005, as illegal, arbitrary and violative of principles of natural justice. A consequential direction is also sought to the 3rd respondent to consider and dispose of the application for grant of stay as well as the appeal within a reasonable time and to further direct the respondents 2 to 4 and their subordinates not to dispossess the petitioner from the subject land of Ac. 1.00 cents in R.S.Nos.645/3, 645/6, 649/8, 647/10 & 646/2, situated at Mopidevi Village & Mandal, Krishna District, until such disposal of the application for stay and appeal afore-stated.'

4. Be it noted that admittedly, the previous Tahsildar, Mopidevi Mandal, Krishna District, earlier passed orders for taking possession of Ac. 0.20 cents in R.S.No.645/3, assigned to Jogi Sharada and purchased by the husband of the writ petitioner and the said orders, dated 30.08.2007, were issued *vide* proceedings in Rc.No.S/50/2005. However, even according to the submission of the Government, the said orders are not implemented for reasons not known. Hence, the then Tahsildar, Mopidevi, again issued requisite notices in Form-I to the various assignees and in Form-II to the husband of the petitioner seeking explanation from all of them regarding transaction of sale and purchase of the assigned land and that thereafter, on the ground that explanations were not given to the said notices, orders, dated 27.01.2014, in Rc.A.178/2013, came to be passed for taking possession of the above mentioned land, admeasuring Ac. 01.00 cents from the husband of the petitioner and consequently, the Mandal Revenue

Inspector, Mopidevi, was directed to take possession of the subject land.

5. Now the petitioner contends that the appeal is not disposed of and is pending; and, in support of the said contention, she places reliance on the notice, dated 16.11.2015, and submits that the appeal is pending. However, learned Government Pleader for Revenue submits that the notice relates to the appeal, which was disposed of by proceedings, dated 27.01.2014, and no appeal is pending. Be that as it may.

6. Learned counsel for the petitioner contends that the proceedings of the Tahsildar, Mopidevi, Krishna District, in Rc.A.178/2013, dated 27.01.2014, are not served upon the petitioner, who is the wife of the purchaser-Batchu Venkateswaa Rao and that due to non-service of the said orders, no appeal could be filed before the District Collector within the statutory time frame and, therefore, while protecting the interests and also the possession of the petitioner over the subject land of Ac. 1.00 cents in R.S.Nos.645/3, 645/6, 649/8, 647/10 & 646/2, situated at Mopidevi Village & Mandal, Krishna District, the writ petition may be disposed of reserving liberty to the petitioner to prefer an appeal within a time frame before the Collector and directing the District Collector to dispose of the appeal, as expeditiously as possible, in the interests of justice.

7. Learned Government Pleader, while endorsing the said submission, submits that the sale of assignment land being illegal, the appeal requires expeditious disposal.

8. Recording the submissions, the Writ Petition is disposed of reserving liberty to the petitioner to prefer an appeal within three (03) weeks from the date of receipt of a copy of this order before the District Collector against the proceedings of the Tahsildar, Mopidevi, Krishna District, in Rc.A.178/2013, dated 27.01.2014. It is made clear that on the failure of the petitioner to prefer an appeal within the time frame afore-mentioned, the afore-stated order of the Tahsildar shall hold good and the Government shall be at liberty to proceed further in the matter. However, in the event the petitioner files an appeal as directed supra, the Collector shall take the same on file without reference to the period of limitation and dispose of the same on its merit and in strict accordance with procedure established by law, however, after giving an opportunity of hearing to the petitioner. Till such exercise is completed, both parties are directed to maintain *status quo* as regards the possession of the petitioner over the above said Ac. 1.00 cents of land. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

M.SEETHARAMA MURTI, J

Date: 4th July, 2018

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