

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.6767 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the Order in I.A.No.1149 of 2018 in LGOP No.181 of 2018 passed by the District Judge, Ananthapuramu, dt. 25.10.2018, whereby the petition filed under Rule 11 of the Andhra Pradesh Land Grabbing ( Prohibition) Rules, 1988 ( for short "the Act") was allowed setting the respondents *ex parte*.

The respondent herein filed LGOP under Section 7-A r/w Section 1 of Section 8 of the Act, to declare the petitioners herein are the land grabbers and award compensation in terms of money for wrongful possession, which shall not be less than an amount equivalent to the market value of the land grabbed as on the date of the Order including delivery of possession of the property grabbed.

On receipt of Notice, the petitioners herein appeared before the Court through their counsel and their counsel filed vakalat on 6.08.2018, but no counter is filed till 17.09.2015, the Court below extended time to file Counter, but for failure to file counter, the Court set the petitioners herein *ex parte*. Therefore, the respondent filed a petition to extend time for filing counter exercising power under Rule 11 of A.P. Land Grabbing ( Prohibition) Rules, 1988 r/w Section 151 CPC.

The respondent herein/petitioner filed counter denying the material allegations contending that all the copies of the documents were supplied and thereby the allegation that the petitioners herein are unable to file counter due to non supply of the document is not

correct and the cause shown by them is not correct and requested to dismiss the petition.

The respondent herein filed a petition under Rule 11 of the Act to set the petitioners herein *ex parte* waiving their right to file Counter as the Counter is not filed strictly adhering to Rules framed under the Act, whereas the petitioners herein filed counter contended that the documents were not supplied to enable them to file Counter in the main petition and therefore, the petitioners herein debarred from filing Counter relaxing the time permitting under Rule 11 of the Act and prayed to dismiss the petition.

Upon hearing both sides, the trial Court allowed the petition filed by the respondent herein setting the petitioners herein *ex parte*.

Aggrieved by the impugned Order, the present Revision Petition is filed mainly on the ground that the petitioners herein appeared before the Special Court on 6.08.2018 and they could not file Counter due to non supply of the material papers in the main case and Rule 11 of the Act is not mandatory and requested this Court to allow the petition setting aside the Order passed by the Special Court.

None appeared for the Respondent inspite of service of notice.

Undisputedly, the petitioners herein appeared before the Special Court through their Counsel on 06.08.2018 and filed Vakalat and the time allowed under Rule 11 of the Rules framed under the Act to file Counter is 14 days or such extended time as the Court may grant.

In the present case, though the petitioners were appeared through their counsel on 06.08.2018, the Court extended time to file Counter till the date of disposal of the petition i.e., 25.10.2018, but they did not file Counter till then, instead, they filed the said petition

under Rule 11 of the rules framed under the Act. However, since the language used in Rule 11 of the Rules framed under the Act is clear that the petitioners herein have to file Counter within a period of 14 days, but the Special Court may extend such time for filing Counter. Therefore, it appears that the period of 14 days is not mandatory. But taking into consideration the serious dispute between the parties as to the title to the immovable property, I deem it appropriate to give an opportunity to file Counter. Hence, the Order passed by the Special Court is hereby set aside while granting permission to the petitioners herein to file Counter within a week from today. In the event of failure to file Counter within a week from today before the Special Court, the Petition is deemed to have been dismissed automatically.

Accordingly, this Civil Revision Petition is allowed setting aside the Order in I.A.No.1149 of 2018 in LGOP No.181 of 2018 on the file of the District Judge, Ananthapuramu.

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

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M. SATYANARAYANA MURTHY, J

Date: 21-12-2018

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