APHC010185882021

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3457]
(Special Original Jurisdiction)

THURSDAY, THE 26th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 9934/2021

Between:

1. POLOJU NAGESWAR RAO,, S/O VEERA SWAMY, AGED 40 YRS, R/O ACHIYAPALEM VILLAGE, BUTTAIGUDEM MANDAL, WEST GODAVARI DIST

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPLE SECRETARY, TRIBAL WELFARE DEPARTMENT, SECRATARIAT, VELAGAPUDI, GUNTUR DISTRICT
2. THE ADDL AGENT TO GOVT / PROJECT OFFICER, ITDA, K.R.PURAM.
3. THE SPL DEPUTY COLLECTOR TW, , POLAVARAM, WEST GODAVARI DISTRICT.
4. THE SPL DEPUTY COLLECTOR LA, POLAVARAM, LIFT IRRIGATION PROJECT, UNIT NO.I,KOWUR, WEST GODAVARI DISTRICT.
5. THE TAHSILDAR, JEELUGUMILLI MANDAL, JEELUGUMILLI, W.G.DT.
6. REPAKA RAMALINGAM SWAMY, , S/O. NARSIMHAMAM, AGED 50 YEARS, R/O. JAGANNADHAPURAM VILLAGE, JEELUGUMILLI MANDAL, W.G.DT
7. SMT REPAKA SUVARCHALA DEVI, W/O.LATE REPAKA RAMALINGA SWAMI, AGED ABOUT 67 YEARS, R/O.10/2 RT, 10-1-739, STREET NO.10, LANE NO.6, WEST MARREDPALLY, HYDERABAD. RESPONDENT NO.7 IS BROUGHT ON RECORD AS PER LR OF DECEASED 6TH RESPONDENT AS PER COURTS ORDER DT.01.09.2025 IN IA 1 OF 2025
8. CHERUKUVADA SRIRANGANADHA RAJU, S/O. VENKATAKRISHNAM RAJU, AGED ABOUT 78 YEARS, R/O. TADEPALLI GUDEM, WEST GODAVARI DISTRICT.
9. REPAKA DAKASHAYANI, W/O. LATE VENAKATA RAMAIAH, AGED 74 YEARS, R/O. JAGANADHAPURAM VILLAGE, JEELUGUMILLI MANDAL, ELURU DISTRICT.
10. REPAKA SATYA BHASKARA MOHANDHAS GANDHI, S/O. NARASIMHA, AGED 61 YEARS, R/O. JAGANADHAOPURAM VILLAGE, JEELUGUMILLI MANDAL, ELURU DISTRICT. RR 8 TO 10 ARE IMPLEADED AS PER COURTS ORDER DT. 12.11.2026 IN I.A.NO.1 OF 2022

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ of CERTIO - RARI call for the records pertaining to orders of the 2nd respondent in S.R.A.No.1/2020 dt-10-03-2021 and set aside the same

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to dispense with filing the certified copie of orders passed in SRA.No.1/2020 dt.10-03-2021 on the file of 2nd respondent pending disposal of the above writ petition and pass

IA NO: 2 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the orders of the 2nd respondent passed in S.R.A.No.1/2020 dt:10-03-2021 pending disposal of the above writ petition

IA NO: 3 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to direct the 4th respondent not to acquire the schedule land covered in Sy.Nos.1/2, 15, 17, 20, 21, 22/4, 22/5, 23, 24, 25, 26, total an extent of Ac.92.45 Cts, situated at Jaganadhapuram Village Jeelugumilli Mandal W.G.Dt, pending disposal of the above writ petition and pass

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to permit the petitioner to implead the proposed respondents as respondent No. 7 to 9 in W.P.No.9934/2021 on the file of this Hon'ble Court and pass such other order

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to permit the petitioner to file the documents enclosed with the additional Affidavit as additional material papers in W.P. No.9934/2021 and to pass such

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleased to permit this respondent to come on record as respondent No.7 as legal heir of respondent No.6 in Writ Petition No.9934/2021 and to pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to grant leave to the Respondent No. 8 in the I.A.No. 1 of 2022 in W.P.No. 9934 Of 2021 to file Counter Affidavit in the above writ petition and to pass

Counsel for the Petitioner:

1. NAGURU SIVA SAIKRISHNA REDDY

Counsel for the Respondent(S):

1. G SAIDEEP
2. GP FOR LAND ACQUISITION
3. GP FOR SOCIAL WELFARE
4. V V SATISH

The Court made the following:

THE HONOURABLE SRI JUSTICE HARINATH.N
WRIT PETITION No.9934 of 2021

ORDER:

1. Heard Sri. K.S. Murthy, learned Senior Counsel appearing on behalf of Sri. N. Siva Sai Krishna Reddy, for the petitioner; Sri. O. Manohar Reddy, learned Senior Counsel appearing on behalf of Sri. V. V. Satish, for the unofficial respondents; and the learned Assistant Government Pleader for the official respondents.
2. It is submitted by the learned Senior Counsel appearing for the petitioner that the petitioner is a tribal and a resident of Jagannadhapuram Village, Jeelugumilli Mandal, Agency area. The petitioner submits that lands in the Tribal area are prohibited from alienation or transfer from a tribe to a non-tribe, and that the petitioner is challenging the order passed by Respondent No. 2 in SR.No.1 of 2009.
3. It is submitted that the petitioner earlier filed SR.No.1 of 2009, along with other tribals, against the unofficial respondents, seeking eviction of the unofficial respondents therein and distribution of the lands to the landless poor tribals. It is submitted that SR.No.1 of 2009 was dismissed by the Special Deputy Collector, Tribal Welfare, Polavaram on 15.11.2019.
4. It is submitted that the petitioner submits that the other unofficial respondents executed a Power of Attorney dated 09.02.1987 in favour of respondent No. 8. It is also submitted that respondent No. 8 has consolidated his possession by virtue of the GPA. The name of

respondent No. 8 is reflected in the revenue records as the possessor of the lands.

5. It is submitted that Section 2(g) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 would define transfer as follows ;

> Section 2(g) Transfer means mortgage with or without possession, lease, sale, gift exchange or any other dealing with immovable property, not being a testamentary disposition and includes a charge on such property or a contract relating to such property in respect of such mortgage, lease, sale, gift exchange or other dealing.

6. It is also submitted that, the execution of a registered GPA would have to be considered as other dealing with immovable property as defined under Section 2(g) of the Regulation, 1959. As such, it ought not to be permitted, and the land in the possession of respondent No.8 would have to be resumed and distributed to the landless poor tribals.

7. Sri.O.Manohar Reddy, learned senior counsel appearing for the unofficial respondents, submits that the father of the respondent No.6 had purchased lands admeasuring Ac.78.68 cents in R.S.No.1/2, 15, 17, 19, 20, 21, 23, 24, 25 and 26/1 vide registered sale deeds during the years 1965 to 1967.

8. It is submitted that the Special Deputy Tahsildar, Tribal Welfare, had filed a complaint before the Special Deputy Collector vide S.R.No.379, 399 and batch of 1983, and the Tribunal held that the transfer of land in favour of the petitioner’s father was valid vide order dated 25.09.1990. The Tribunal considered the registered sale deeds of the years 1965 to

1967 and held that Regulation 1 of 1970 would not apply, as the transfers were made before Regulation 1 of 1970 came into force. It is submitted that the petitioner's father had acquired the said property during his lifetime, and thereafter the property devolved upon the petitioner and his two other siblings.

9. It is the specific case of respondent No. 6 that the respondent and his family are cultivating the subject land even today. It is also stated that the name of respondent No. 6 is reflected in the revenue records. It is also submitted that the GPA was executed in favour of respondent No.8 when the 6th respondent's father was staying in Bangalore, for the limited purpose of pursuing S.R.No.379, 399 and batch of 1983 before the Special Deputy Collector.

10. It is submitted that the 6th respondent's father passed away four months before the dismissal of S.R.Nos.379, 399 and batch of 1983 in the year 1990. It is submitted that the GPA would become redundant in view of the demise of the 6th respondent's father. It is also submitted that S.R.No.1 of 2009 was filed by the writ petitioner along with 20 other petitioners. The 1st petitioner in S.R.No.1 of 2009 had filed an appeal vide S.R.No.1 of 2019, which was dismissed. The petitioner Nos.2 to 21 in S.R.No.1 of 2009 filed W.P.No.9572 of 2021, which was dismissed as withdrawn on 23.06.2022.

11. Learned senior counsel further submits that any document that would extinguish a party's right over the property would be considered a

transfer. On the present set of facts and circumstances, no third party rights or documents were created by the GPA holder on the strength of the GPA. The GPA has outlived its purpose after the demise of the 6th respondent's father and is redundant.

12. It is also submitted that once the issue is settled by the competent authorities, the same issue cannot be raised multiple times on the same set of allegations. It is submitted that the issue attained finality in the year 1990 itself. However, the petitioner chose to file S.R.No.1 of 2009 after lapse of 19 years.

13. Considering the submissions and the pleadings on record, the point for consideration is whether the petitioner's claim to set aside the orders passed in S.R.No.1 of 2019 and S.R.No.1 of 2009 deserves consideration on merits.

14. It would be appropriate to trace the evolution of Agency Laws in the Country,Agency Laws have evolved to safeguard and protect tribals living in scheduled areas. These laws were introduced to protect Tribals from exploitation and to prevent clandestine transactions by non-Tribals acquiring land in scheduled areas. The first phase of legislation was introduced as early as 1839 with the Ganjam and Vizagapatnam Act, 1839, which created a Special Administrative Agent exercising Civil, Criminal, and Revenue Authority. The Scheduled Districts Act, 1874 enabled the Executive to exclude or modify general laws for designated tracts of land deemed unsuited to ordinary laws and standard judicial

systems because of geographical isolation and distinct tribal cultures (such as parts of Madras, Bengal, Assam, and central regions).

15. The Agency Tracts Interest and Land Transfer Act, 1917 (Madras Act, 1 of 1917), was introduced to regulate interests in and the transfer of land in the Agency Tracts. This legislation restricted a Member of a Tribe from transferring immovable property to a Non-Tribal Member without the Agent's prior consent to the Government.

16. After independence, the framers of the Constitution of India have incorporated Part-10 of the Constitution of India to deal exclusively with the Scheduled and Tribal Areas. Article 244 of the Constitution of India deals with the Administration of Scheduled Areas and Tribal Areas. Thereafter, the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 was introduced. Under this Regulation, the Agent's or the designated Revenue Authority's prior sanction was mandatory for a member of a Scheduled Tribe to transfer immovable property in a Scheduled Area to a Non-Tribal.

17. Regulation II of 1963, the Andhra Pradesh Scheduled Areas Laws (Extension and Amendment) Regulation, 1963 extended the 1959 regulation and the related money lenders regulation to scheduled areas. Regulation I of 1970 has changed the dynamics of the Scheduled Area lands and the following are the key points :

    (i) **Absolute prohibition** of transfer of immovable property in a Scheduled Area by a tribal to a non-tribal (the sanction route being closed).

(ii) **Extension to transfers between non-tribals** within the Scheduled Area, so that land once out of tribal hands could not circulate freely, and so that the regime could not be defeated by chain transfers.

(iii) **A statutory presumption** that a non-tribal found in possession acquired the land, directly or through predecessors, by transfer from a tribal, unless the contrary is proved, which shifted the evidentiary burden to the possessor.

(iv) **Enforcement machinery**: restoration of land to the tribal, ejectment, restrictions on registration of documents, and penal consequences.

18. The Hon'ble Supreme Court in **P.Ram Reddy and Others Vs. State of Andhra Pradesh and another**[1]**.** The Constitutional Challenge to Section 3(1) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 as substituted by Andhra Pradesh Regulation – 1 of 1970. The Hon'ble Supreme Court upheld the restriction as the same was reasonable and necessary measure to protect Tribal Communities and prevent the continuation of historical exploitation. The transfer of lands held by non-tribals to other non-tribals was prohibited as the same would protect the Tribal Communities, this restriction would prevent new non-tribals from entering into Scheduled Areas.

19. The Hon'ble Supreme Court in **P. Samatha Vs. State of Andhra Pradesh**[2]**,** the Hon'ble Supreme Court upheld the prohibition in Section 3(1)(a) and the word "any person" includes the State Government mining lease could not be granted to a Non-Tribal or a Non-Tribal

[1] 1988 (3) SCC 433
[2] 1997 (8) SCC 191

person or Company. The existing leases were prohibited from breaking fresh mines.

20. The Hon'ble Supreme Court in the matter of **Deputy Collector v. S. Venkata Ramanaiah and another**[3], dealt with the applicability of 1959 Regulation as amended in 1963 and 1970. The Court has held that the Regulation would operate prospectively and cannot invalidate completed land transactions entered into before the relevant provision became applicable to the concerned Scheduled Areas. The Hon'ble Supreme Court further held that Section 3(2)(a) which provides for ejection of non-tribals and restoration of land to the Tribals is consequential to Section 3(1)(a) and cannot be independently pressed into service to invalidate the possession of a non-tribal and an originally valid transaction.

21. The Law on this subject is well settled. The transfer of land in favour of the father of the respondent No.6 is on account of the sale transactions which were concluded before the regulations became applicable. As such, the regulation cannot affect completed pre-regulation transactions.

22. The petitioner has not made out any case for interference by this Court and repeated attempts of the petitioner and other Tribals over concluded transactions cannot be revisited as and when a fresh litigation initiated.

[3] 1995 SCC (6) 545

23. With the above reasons, the writ petition is dismissed. There shall be no order as to costs.

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

JUSTICE HARINATH.N

Dated 26.11.2026
KGM

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION No.9934 of 2021
Dated 26.11.2026

KGM