

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO.20015 OF 2023

ORDER:

The present Writ Petition is filed, under Article 226 of the Constitution of India, seeking the following relief:

“to issue order or direction more particularly one in the nature of Writ of MANDAMUS declaring the action of the respondents 6 to 8 in seeking to disposes the petitioner from his land over an extent of Ac.1.70 cts and Ac.0.89 cts in Sy Nos.5/ 1A and 5/ 1B respectively situated at Kamavarapupadu Village, Agency Ganagavaram Mandal, Alluri Sitha Rama Rajau District in pursuance of the orders passed by the 6th respondent in L.T.R.P No.36/2023 dt.03.07.2023 in spite of preferring the appeal before the 5th respondent against the order in L.T.R.P No.36/2023 dt:03.07.2023 as wholly illegal, arbitrary and unjust and consequently direct the respondents not to eject the petitioner from the above mentioned lands pending disposal of the appeal preferred before the 5th respondent in the interest of justice and to pass such other order or orders.....”

2. Heard Sri K.Venkatesh, learned counsel for the petitioner, learned Assistant Government Pleader for Tribal Welfare, learned Government Pleader for Land Irrigation and learned Assistant Government Pleader for Revenue.

3. Learned counsel for the petitioner, in elaboration to what has been stated in the affidavit contended that, respondent authorities are trying to dispossess the petitioner from her land in an extent of Ac.1.70 cents and Ac.0.89 cents in Survey Nos.5/1A And 5/1B respectively situated at Kamavarapupadu village,

Agency Ganagavaram mandal, Alluri Sitha Rama Raju District under the guise of the order dated 03.07.2023 passed by respondent No.6 in L.T.R.P No.36 of 2023. He further contended that, aggrieved by the order passed by respondent No.6, the petitioner preferred an appeal before respondent No.5 along with an application for grant of stay/suspend the operation of order dated 03.07.2023 passed in the said L.T.R.P. In spite of the same, the said authority has neither numbered nor taken up the matter for consideration. In the meantime, in the event, respondent authorities execute the order passed by respondent No.6, the petitioners rights will be affected and the purpose of filing the appeal before respondent No.5 as well as this Writ Petition before this Court would be defeated. As such, prayed to pass appropriate orders in the interest of justice.

4. On the other hand, learned Assistant Government Pleader for Tribal Welfare, on written instructions dated 08.08.2023, and learned Assistant Government Pleader for Land Acquisition collectively submitted that, the appeal filed by the petitioner is under scrutiny, if it is found to be in order, hearings will be conducted by giving sufficient time and opportunity to the appellant to produce the evidences and after careful examination of the evidences/material/record submitted by both the parties

the case will be disposed basing on the merits and by following the appropriate agency laws. Hence, prayed to pass appropriate orders in that regard.

5. Perused the material available on record.

6. The Special Deputy Collector, Tribal Welfare, Rampachodavaram passed order dated 03.07.2023 in L.T.R.P.No.36 of 2023 directing the Tahsildar to eject the petitioner herein, who is the respondent therein, from the subject property and further directing to take possession of the said property. Against the said order, the petitioner has preferred an appeal before the Additional Agent to Government & Project Officer, I.T.D.A., Rampachodavaram along with Interlocutory application duly praying the said authority to suspend /stay the operation of the order dated 03.07.2023 passed in L.T.R.P.No.36 of 2023.

7. The written instructions so placed by learned Assistant Government Pleader for Tribal Welfare do not contain any reasons for not taking up the appeal preferred by the petitioner for consideration so far. As rightly contended by the learned counsel for the petitioner, in case the respondent authorities executes the order appealed, the rights of the petitioner will be affected and purpose of filing appeal would be defeated. Since the petitioner

has already availed the remedy of preferring appeal before the respondent No.5, this Court, instead of keeping the Writ Petition pending, is inclined to dispose of the Writ Petition, with the consent of both the learned counsel, at the admission stage itself, with the following direction:

The respondent authorities are hereby directed not to take any coercive steps against the petitioner's property till the Interlocutory Application filed along with CMA No.Nil of 2023 before respondent No.5 is numbered and heard.

8. Accordingly, the Writ petition is disposed of. There shall be no order as to costs.

As a sequel thereto, interlocutory applications pending, if any in the writ petition, shall also stand closed.

JUSTICE RAVI CHEEMALAPATI

09.08.2023

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