

**IN THE COURT OF THE ADDL. AGENT TO GOVERNMENT AND
PROJECT OFFICER, ITDA::ADILABAD HQRS :: UTNOOR**

Thursday, 15th day of June 2023

PRESENT: Sri K.Varun Reddy, I.A.S.,

LTR Appeal No. A4/LTR/254/2015

BETWEEN:

1. Dhoharkar Ramdas S/o Chimnaji,
Aged: 60 years, Occ: Agriculture,
R/o Takli village, Mandal Bela, Adilabad Dist.
2. Dhoharkar Raju S/o Yadhav Rao,
Aged: 35 years, Occ: Agriculture,
R/o Takli village, Mandal Bela, Adilabad Dist.

.... Appellants

AND

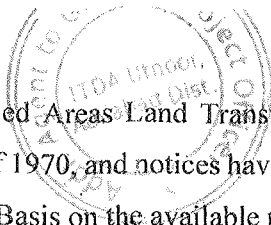
1. Ada Santosh s/o Bapu Rao,
Aged; 28 years, Occ: private Teacher,
R/o Takli village, Mandal Bela, Adilabad Dist.
2. Special Deputy Collector (TW) Uttnoor.

.... Respondent no. 1 and 2

This memorandum of appeal filed by the Appellants under Section 3(a)(iii) of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959, seeking an order to set aside the ejectment decree and the common order passed by the learned Special Deputy Collector (TW), Uttnoor in Case No. TWA2/138/2014, dated: 23-04-2015. This appeal having stood over for consideration till this day after hearing on both the sides and on perusal of material record on the file, this Court made the following:-

ORDER

1. That the brief facts of the appeal that the respondent no.1 has filed a petition before the Special Deputy Collector (Tribal Welfare), Uttnoor, that the appellants are encroached his house site and constructed houses in notified agency Takli village of Bela mandal Adilabad district against the Amended Regulation 1 of 1970 and requested to restore.
2. Based upon the petition the Special Deputy Collector (TW) initiated a case vide case no. TWA2/138/2014 under the provisions of section 3 sub-section 1 of the

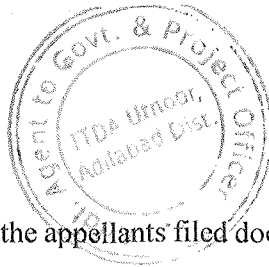


Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 read with Amended Regulation 1 of 1970, and notices have been issued to both the parties and verified the records. Basis on the available records filed by both the parties the Special Deputy Collector (TW) has exercise of powers conferred by him, issued order against the appellants for ejectment from the suit property U/s 3 (1) (a) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 read with Amendment Regulation 1 of 1970, and the suit property taken into the government custody U/s 3 (2) (b) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 read with Amended Regulation 1 of 1970.

3. The ejectment Order issued by the Special Deputy Collector (TW), against the appellant in Proceeding No. TWB2/138/2014, dated:23-04-2015, that aggrieved by the said order the appellant has preferred an appeal vide case no.A4/LTR/254/2015. Pendency of memorandum of appeal, the appellants filed a writ petition vide W.P.No. 30281/2016 before the Hon'ble High Court of Judicature for the State of Telangana and for the State of Andhra Pradesh, the Hon'ble High Court set aside the Proceeding vide case No. TWB2/138/2014, dated: 23-04-2015 issued by the Special Deputy Collector (TW) vide WPMP No.37452 of 2016 in WP No. 30281 of 2016 dated 14.09.2016.
4. The Appellants preferred this Memorandum of Appeal seeking an order to set aside the order of the lower court in Case No. TWB2/138/2014, dated. 23.04.2015 on the grounds that the lower court did not follow the due process of law and erroneously pass the alleged order, the lower court failed to see and consider their claims and passed the impugned order. The appellant prayed to set aside the order of the lower court and allow the appeal.

This case is coming on before me for final hearing on 20.05.2023 in the presence of Sri Mohammed Ghouse Advocate for the appellant and Sri Pendoor Prabhakar Advocate for respondent no.1 having heard and stood over for consideration till date, this court delivered the following: -

6. Based on the above pleadings, the following issues are settled for trial.
 - i. Whether the transaction of house in contravention of LTR 1/70 Regulation?
 - ii. Whether the lower courts examine the veracity of the evidence?
 - iii. To what relief appellants entitle?



7. During the course of trial, the appellants filed documentary evidence. Ex.A-1 to A-5 is marked on behalf of the plaintiff. On the other hand, the respondent has not filed any documentary evidence on behalf of the respondent.
8. Heard both sides and perused the record.

i. **POINT NO.1:**

9. The learned counsel for the petitioner submitted his written arguments reiterating the petition averments. He further argued that one Sakarkar Bapune Arjun and his wife Janabai and father of the appellant no.1 used to reside in the house no's. 1/4 and 1/5, said Janabai is elder sister of the father of the appellant no.1, after the death of Sakarkar Bapune and Janabai, the father of the appellant and his younger brother Yadhav Rao used to reside in the said house and after death of father of the appellant, the appellant no.1 and 2 are residing in the said house.
10. The learned counsel for the appellant further argued that the Ex-A1 is a Photostat copy of sale deed dated 20.05.1966 translated from Urdu to English it appears that the father of the appellant no.1 namely Chinnaji purchased the house site from Smt. Laxmi Bai admeasuring 45 X 50 situated at Takli village of Bela mandal, further argued that the appellants paid the house tax to the Grama panchayat from 1990, the respondent has not filed any documentary evidence pertaining to ownership right over the house bearing no.1/4 and 1/5 before the special deputy collector (TW), Utnoor. The Ex-A2 to A2(10) are tax receipts pertaining to house bearing no's 1/4 and 1/5 it is revealed that the appellants are residing in said house and paying the house tax, the grama panchayat has recorded their names in tax register. The Ex-A1 clearly shows that the father of the appellant no.1 purchased the house site in 1966 it is prior to the enactment as amended by Regulation 1 of 1970. The transaction does not hit the provisions of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 read with Amendment Regulation 1 of 1970. Accordingly, this point is answered.

ii. **POINT NO.2:**

11. The learned counsel for the appellants argued that neither the respondent no.1 nor his father namely Bapu Rao has not have any kind of Right or title over the houses bearing its Door No. 1/4 and 1/5 situated at Takli village of Mandal Bela. The respondent no.1 has not filed any document to show that they are the owners

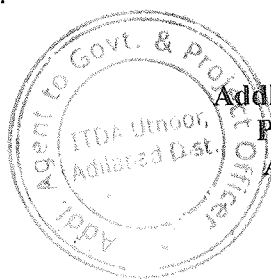
of the said houses. The counsel for the appellant further argued that the Spl. Deputy Collector, Utnoor without verifying any documents filed by the appellants and come to conclusion that, the Appellants have contravened the provision of Section 3 of A.P. Scheduled Area Land Transfer Regulation 1959 and passed the orders of eviction of the Appellants from the possession of the houses bearing its Door No. 1/4 and 1/5 under the provisions of Section 3 of A.P. Scheduled Area Land Transfer Regulation 1959.

12. The counsel for the appellant further argued that Ex-A4 is enquiry report submitted by panchayath secretary Takli village dated 11.05.2015 it is appears that the father of the respondent no.1 was not the owner of the house bearing no's.1/4 and 1/5, the father of the respondent recorded his name as a owner in grama panchayath record is house bearing no.1-8/1 situated at Takli village of Bela mandal, the Ex-A5 is household supply card issued by Government of Andhra Pradesh it is appears that house bearing no.1-4 is recorded in favour of the appellants, the respondent no.1 has not filed documentary evidence pertaining to house site. Accordingly, this point is answered.

iii. POINT NO.3:

In the result, on the basis of point no.1 and 2, the contention of the appellants hereby agreed, the lower court order in Case No. TWA2/138/2014, dated:23-04-2015 is set-aside, the scheduled property house bearing no's.1/4 and 1/5 has to be restored to the Appellants from the Government Custody. It is directed to the Tahsildar, Bela to restore the scheduled property to the Appellants or his Legal heirs immediately. Accordingly, all the points are answered. The appeal petition is allowed.

Typed to my dictation corrected by me and pronounced in the open court on this 15th day of June, 2023.



[Signature]
**Addl. Agent to Government &
Project Officer, ITDA,
Adilabad Hqrs: Utnoor.**

APPENDIX OF EVIDENCE
WITNESSES EXAMINED FOR

For Appellants:

PW-1: Dhoharkar Ramdas
PW-2: Dhoharkar Raju

For Respondent:-

Nil

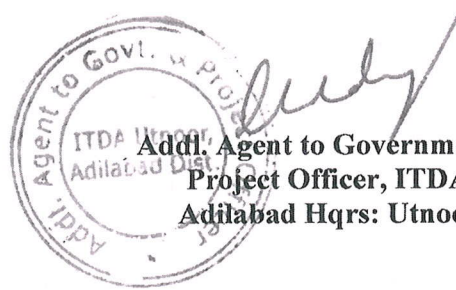
Exhibits marked.

For plaintiff:

Ex.A-1. is the copy of sale deed, dt. 20.05.1966
Ex.A-2. is the copy of the house tax receipts.
Ex.A-3. is the copy of the house tax register.
Ex.A-4 is the copy of the enquiry report by panchayath secretary Takli village.
Ex.A-5 is the household supply card.

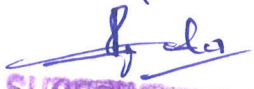
For Respondent:-

Nil.



**Addl. Agent to Government &
Project Officer, ITDA,
Adilabad Hqrs: Utnoor.**

1. Copy to the party's concern
2. Copy to the Tahsildar, Bela.

1 All set-ldg

SUPERINTENDENT
% O.S.D.(TW) ITDA UTNOOR