

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.15719 of 2012

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Dated 11.06.2015

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Between:

Sunkisala Venkaiah and 182 others

... Petitioners

and

1.The Govt. of Andhra Pradesh

rep. by its Secretary

Ministry of Tribal Affairs,

Sastri Bhavan, New Delhi and 2 others

...Respondents

Counsel for the petitioners: Mr.G.L.Nageswara Rao

Counsel for respondent No.1: None appeared

Counsel for respondents 2 & 3: AGP for Forests(AP)

The Court made the following:

Order:

This Writ Petition is filed by as many as 183 persons, who claim to be in possession of Acs.2-00 cents each of the forest land situated in Sree Ramanjaneyapuram Thanda, Mannesultan Palem Village of Bellamkonda Mandal, Guntur District, from time immemorial, stating that they have been raising crops such as Mirchi, Vegetables and other seasonal crops; that they are eligible for grant of pattas under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (for short 'the Act'); that in WP.No.21479 of 2007, filed as a piece of Public Interest Litigation, a Division Bench of this Court has passed an order on 01-05-2009, directing the respondents not to evict or disturb them pending the Writ Petition; and that pending consideration of their request for issue of pattas, respondent No.3 is making hectic efforts to dispossess them from the lands in their occupation. The petitioners have, therefore, sought for a writ of Mandamus to declare the action of respondent No.3, in trying to dispossess them from the forest lands, as illegal and arbitrary.

A detailed counter-affidavit is filed by respondent No.3. It is *inter alia* stated therein that it may be true that the petitioners are cultivating forest lands, but, such cultivation is illegal and in violation of the provisions of the Andhra Pradesh Forest Act and Forest Conservation Act; that as the petitioners did not fulfil the eligibility criteria under the Act, their claims were not considered; that under the provisions of the said Act, all the claimants other than Scheduled Tribes must prove that they have been living in the forest land for three consecutive generations *i.e.*, for 75 years as on 13-12-2005 and that they were in possession of the land as on 31-12-2007; and that as the petitioners failed to produce such evidences, their claims cannot be considered. The counter-affidavit further averred that the claims of the petitioners were not considered at Grama Sabha Level and also by the Sub-Divisional Level Committee constituted under the Act, as they did not fulfill

the eligibility criteria and that therefore, eviction notices were issued to them by the Forest Range Officer, Guntur, under Section 20 of the A.P.Forest Act, 1967, duly following the prescribed procedure.

At the hearing, Smt.Vijayalakshmi, Deputy Forest Range Officer, is present along with the file. She has explained that the petitioners have neither made applications nor approached the Grama Sabha/Forest Rights Committee with the request for grant of pattas before 31-05-2008, which is the last date prescribed for making claims. She has, however, admitted that on behalf of the petitioners, a representation was made for grant of pattas and that the same was received by the Divisional Forest Officer-respondent No.3 on 19-12-2011. She has further explained that as the said representation was made far too belatedly *i.e.*, beyond 31-05-2008 and no evidence was sent to show that they, being non STs, have been in possession of the forest lands for the last three consecutive generations *i.e.*, not less than 75 years, the said representation was not considered.

The questions whether the petitioners are eligible for grant of pattas under the Act or not and their claims were made within the prescribed time or not need to be decided by the competent authority. Since a representation was, admittedly, made by the petitioners, which was received on 19-12-2011, it is incumbent upon respondent No.3 to consider the same, take a decision thereon as per the provisions of the Act & the Rules made thereunder and the route map prepared under the Act and communicate the same to the petitioners. If the petitioners feel aggrieved by the decision that may be taken by respondent No.3, they are entitled to avail appropriate legal remedies.

As the respondents have not specifically denied the plea of the petitioners that they are in possession of the lands, they shall not be dispossessed from the lands in their respective occupation till decision is taken by respondent No.3 and communicated to the

petitioners. Respondent No.3 shall take such decision and communicate the same to the petitioners within two months from the date of receipt of this order.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.20284 of 2011, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 11th June, 2015

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