

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.19295 of 2012

-

23.07.2015

Between:

Kandala Chandrasekhar and another ...**Petitioners**

And

The Forest Range Officer, Aswapuram,
Khammam and others

...Respondents

Counsel for the petitioners: Ms.Ch.Sujatha
for Mr.Sudarshan Malugari

Counsel for the respondents: Government Pleader
for Forests (TS)

-

The Court made the following:

-

-

-

ORDER:

Petitioner No.1 claimed that he is the owner and possessor of land admeasuring Acs.4.20 guntas in survey No.190/550 of Nellipaka Village, Aswapuram Mandal, Khammam District, having been purchased by his father under sale deed, dated 20.06.1974, and petitioner No.2 claimed that she is the owner and possessor of land admeasuring Acs.5.00 in survey No.190/136 of the same village, having been assigned to her, *vide* proceedings No.A4/652/84, dated Nil.02.1984, by the Tahsildar, Manuguru. When the respondents sought to interfere with their possession of the aforesaid lands, the petitioners filed W.P.No.2563 of 2011 and this Court, by order, dated 08.02.2011, disposed of the said writ petition with the following observations and directions:

“Under Section 20(3) of the Andhra Pradesh Forest Act, 1967, where a person contravenes the provisions of sub-clause (ii) or sub-clause (vii) of clause (c) of sub-section (1), a forest officer not below the rank of a Ranger, a Police officer not below the rank of a Sub-Inspector or a revenue officer not below the rank of a Deputy Tahsildar, may evict a person from the forest land. The proviso to the said provision, however, stipulates that before taken any such action, the officer

concerned shall give an opportunity to the person likely to be affected to make any representation, against the action proposed.

In view of the above-noted mandatory provision of law, respondent No.1 cannot interfere with the petitioners' possession and enjoyment of the property, without following the procedure prescribed by the statute.

Accordingly, the writ petition is disposed of with the direction to respondent Nos.1 and 2 not to interfere with the petitioners' possession and enjoyment of the land referred to above, without initiating and passing an appropriate order under the above-noted provision."

Purporting to follow the above reproduced order, respondent No.1 issued notices to the petitioners calling for their explanation why they shall not be evicted from the lands in their occupation. In reply thereto, the petitioners submitted documents, such as stamped document handing over of possession to petitioner No.1, pattadar passbooks and pahani copies issued to the petitioners, and final patta certificate issued to petitioner No.2. Based on these documents, the petitioners have asserted that they are entitled to remain in possession of land admeasuring Acs.9.20 guntas in the aforementioned survey numbers. However, the claim of the petitioners was rejected by respondent No.1, *vide* impugned order, dated 25.05.2011, purporting to rely upon tipon documents. Feeling aggrieved by this order, the petitioners filed the present writ petition.

Respondent No.2 filed a counter-affidavit, wherein it is asserted that the land in respect of which the petitioners made their claim forms part of Nellipaka reserve forest.

At the hearing, the learned Government Pleader for Forests has fairly conceded that in the final notification issued under the Andhra Pradesh Forests Act, 1967, the subject survey numbers were not included and that therefore, the extent of Acs.9.20 guntas of land claimed by the petitioners does not form part of the reserve forest. He has, however, submitted that in the guise of claiming rights over the said lands, the petitioners have encroached upon the reserve

forest and occupied a part of reserve forest land, due to which respondent No.1 passed the impugned order.

From the respective pleadings of the parties, the dispute that emerges is whether the land which is stated to be admeasuring Acs.9.20 guntas in the aforesaid survey numbers is outside the reserve forest or not. If it is ultimately found that the land which is claimed by the petitioners is part of reserve forest land, the respondents are justified in protecting the said land from the interference by the petitioners. As the respondents have not disputed the claim of the petitioners in respect of the land admeasuring Acs.9.20 guntas in the aforementioned survey numbers, the only issue which needs to be ultimately decided is whether the said land falls outside the reserve forest boundary or not. Unless proper survey is held and boundaries are demarcated, it is not possible for this Court to decide this issue. Therefore, holding of a joint survey both by the forest and revenue departments is essential.

Respondent Nos.1 and 2 are, therefore, directed to arrange for a joint survey to be held by the forest and revenue departments in the presence of the petitioners/their representatives after notice. The Tahsildar, Aswapuram Mandal, who is not a party to this writ petition, shall cooperate with respondent Nos.1 and 2 in holding such survey. The joint survey shall be completed within a period of four months from the date of receipt of a copy of this order and the copy of survey report shall be communicated to the petitioners. If in the survey, it is found that the land which is claimed by the petitioners falls outside Nellipaka reserve forest, the respondents shall not interfere with the petitioners' possession of the aforesaid land. In a converse situation, the respondents are entitled to protect the reserve forest land in accordance with law. If the petitioners feel aggrieved by the survey report, they shall be free to avail appropriate remedy in accordance with law.

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

As a sequel to disposal of the writ petition, interim order, dated

28.06.2012, in W.P.M.P.No.24718 of 2012 is vacated, and W.P.M.P.No.24718 of 2012 and W.V.M.P.No.3020 of 2013 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

23rd July, 2015

GHN