

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

WRIT PETITION NO.13540 OF 2012

DATED:29-7-2015

Between:

Kodimi Nageswara Rao
and others

... Petitioners

And

Forest Range Officer
Aswapuram
Khammam District
and others

... Respondents

... Respondents

COUNSEL FOR THE PETITIONERS: V. Sree Ranga Rao

COUNSEL FOR THE RESPONDENTS: G.P. for Forests (TS)

THE COURT MADE THE FOLLOWING:

ORDER:

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The petitioners, who claim to be in occupation of revenue land, filed this writ petition feeling aggrieved by different but similar notices issued by respondent No.1 calling upon the petitioners to vacate the land in their occupation on the allegation that they have encroached the reserve forest of Nellipaka (B/Block) compartment Nos.4 and 5.

It is the pleaded case of the petitioners that they are houseless non-tribal poor people without dwelling houses, that in respect of some land in Sy. No.190 of Mondikunta Village, Hamlet of Nellipaka, respondent No.3 has allotted house sites, vide his proceedings Rc.No.A/3746/2008, dt.22.11.2008, that on coming to know about the same the petitioners have also approached respondent No.3 for allotment of land under their occupation and that in the meantime respondent No.1 has issued the impugned notices.

In the counter affidavit filed by respondent No.2 it is *inter alia* stated that while the revenue authorities have allotted house sites to the petitioners for construction of houses in Sy.No.190, in the guise of said allotment the petitioners encroached reserve forest land situated at Compartment No.4 of Sy. No.190 of Nellipaka-B reserve forest leading to issue of the impugned notices. Said respondent has traced the power of respondent No.1 to Section 20(d)(3)(i) of the A.P. Forest Act, 1967 (for short, 'the Act'), to issue impugned notices to evict the petitioners.

The question whether the petitioners have encroached the forest land and been in occupation thereon, is a verifiable fact. Without an opportunity of submitting their explanation and proving that they are in occupation of reserve forest, respondent No.1 cannot unilaterally conclude that the petitioners are in occupation of the reserve forest

land. Indeed, under the proviso to Section 20(3) of the Act, before taking any action for eviction of persons from forest land, the officer concerned shall give an opportunity to the person affected to make a representation against the proposed action. Though the impugned proceedings are styled as notices, they are in effect in the nature of an order demanding handing over of land in possession of the petitioners. Therefore, the procedure followed by respondent No.1 is not in conformity with the procedure prescribed under the above mentioned statutory provision.

In the light of the above discussion, the impugned notices are liable to be set aside. However, instead of setting aside these notices, this Court is of the opinion that interests of justice would be served, if the impugned notices are treated as show cause notices and the petitioners are permitted to submit their respective objections. Accordingly, the petitioners are permitted to file their objections within three weeks from the date of receipt of this order. On receiving such objections, respondent No.1 shall hold an enquiry, pass an order and communicate the same to the petitioners before proceeding to take further action.

The writ petition is accordingly allowed to the extent indicated above.

As a sequel to disposal of the writ petition, W.P.M.P.No.16955 of 2012 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

29-7-2015

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