

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

WRIT PETITION NO.40386 OF 2012

DATED:30-7-2015

Between:

Mamidi Govindaiah

and another

... Petitioners

And

The Divisional Forest Officer

Nellore

SPSR Nellore District

and another

... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. M. Ravindra for

Mr. Venkata Narayana

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

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed to declare the action of the respondents in dispossessing the petitioners from Ac.1.40 cents in Sy.No.224 P-2, Ac.0.55 cents in Sy.No.229 P-2, Ac.0.58 cents in Sy.No.224 P-1, Ac.1.37 cents in Sy.No.229 P- 1, Ac.0.58 cents in Sy.No.224 P-3, Ac.1.37 cents in Sy.No.228 P-3, situated at

Kothambedu Village, Balayapalli Mandal, SPSR Nellore District, as illegal and arbitrary. The petitioners sought for a consequential direction to the respondents not to dispossess them from the above mentioned lands otherwise than in accordance with law.

The petitioners averred that the then Tahsildar, Venkatagiri, has issued D-form pattas in favour of the petitioners and their mother late Smt. Mamidi Veeramma, vide proceedings F.Dis. Nos.603/91, 605/91 and 604/91 respectively, in respect of above mentioned lands, in the year 1982. That since then the petitioners' family is in possession of the said lands. That while so, without any authority of law, the respondents started interfering with the petitioners' possession of the property. Therefore, the petitioners have filed the present writ petition for the above mentioned relief.

Respondent No.2 has filed a counter affidavit wherein it is *inter alia* averred that the lands in question are part and parcel of Chilamanu reserve forest, which was notified under Section 15 of the Andhra Pradesh Forest Act, 1967 (for short, 'the Act'), vide G.O. Ms. No.981, Forest & Rural Development (For.III), dt.3.11.1976. That the alleged pattas issued by the Tahsildar after the notification under Section 15 of the Act, have no validity in law in view of Section 2 of the Forest Conservation Act, 1980, which *inter alia* prohibits use of forest land or any portion thereof for any non-forest purpose and that therefore the petitioners cannot claim any protection under the purported pattas issued by the revenue functionaries.

In support of the petitioners' claim that they were granted pattas they have filed copies of D-form pattas issued by the Tahsildar concerned, a perusal of which shows that the petitioners were granted D-form pattas for Ac.1.95 cents each in Sy.No.224-P, 228-P and 229-P.

The respondents filed a copy of the Gazette Notification under G.O. Ms. No.981, dt.3.11.1976, issued under Section 15 of the Act, notifying the reserve forest. The notification contains the names of the villages and survey numbers which are notified as reserve forest. As regards Kothambedu Village, in which the subject lands are situated, the notification has mentioned Sy.No.1 alone. Sy.Nos.224-P, 228-P and 229-P, in respect of which the petitioners were granted D-form pattas do not find place in the Gazette Notification. Interestingly, the counter affidavit is silent on the survey numbers of Kothambedu, which are notified as reserve forest. From

this material, it is abundantly clear that the lands assigned to the petitioners are not notified as reserve forest and the respondents have come out with a false plea that the lands assigned to the petitioners fall under reserve forest. As the respondents have nothing to do with the lands in Sy.Nos.224-P, 228-P and 229-P, which are evidently revenue lands and the petitioners were granted D-form pattas in respect of Ac.1.95 cents each, their action in seeking to interfere with the petitioners' possession is wholly unauthorized, illegal and arbitrary. Hence, the respondents are restrained from causing such interference.

The writ petition is accordingly allowed.

As a sequel to disposal of the writ petition, W.P.M.P. No.51235 of 2012.

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C.V. NAGARJUNA REDDY, J

30-7-2015

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