

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 3552 of 2011

ORDER:

The writ petition is filed questioning the Endorsement dated 03.12.2010 issued in the name of the District Collector. The sum and substance of the Endorsement is that the permission sought for by the petitioner to cut and carry away 260 teak trees in the plantation in the land over an extent of 0.79 Hectares in Survey No.34/6 of Maredumilli village and mandal, was rejected.

2. The claim of the petitioner is that her grandfather Suggi Reddy, in the year 1936, was allowed to plant the trees in the Mutta village under the relevant Mutta administration. The land popularly came to be known as Cheemalamanulanka. When the tree plantation was ripe for cutting, her grandfather made an application to the District Administration and the Collector, East Godavari, Kakinada, vide his proceedings in R.Dis.21793/68 dated 02.05.1969 granted permission to cut and carry away the tree plantation. Thereafter, her grandfather planted a new tree for every cut down tree. Her grandfather had complied with the condition and planted the trees and nurtured them during his lifetime and subsequently her father and thereafter the petitioner nurtured the trees. The 3rd respondent-Tahsildar and the 2nd respondent-Revenue Divisional Officer, in their respective reports, had recommended granting of permission to the petitioner; and inspite of the same, the 1st respondent had refused to grant permission. The 1st respondent refused to grant permission merely on the ground that the land is recorded as 'Gayalu' and it is also not the claim of the petitioner, at any time, that the land is a patta land. The claim of the petitioner is that the petitioner's family was instrumental in planting, nurturing and raising the plantation and as such they are entitled to take away the produce.

3. On the other hand, a detailed counter affidavit has been filed by the 1st respondent-Collector as well as the Tahsildar. The history with respect to the land popularly known as Cheemalamanulanka and the various circumstances under which the petitioner's grandfather came to be permitted to cut and carry away the teak plantation in 1969 was set out in detail. It was further pointed out by the Collector that the permission granted in 1969 and the condition imposed is only to enable the petitioner's grandfather to cut and take away the existing trees at that time; and there is no further entitlement which was given to the petitioner to claim

plants planted or subsequent plants ripe for cutting. The averments of the petitioner that the petitioner's family nurtured the teak plantation, is denied. It is further stated that there is no basis for the report of the subordinate officers to come to a conclusion that the petitioner's family had nurtured the teak plantation and, at any rate, it is the 1st respondent-Collector who is competent to decide the entitlement with respect to the trees. It is further stated that the scheme of "Mutta" was abolished long back and in the absence of any right for the petitioners to claim the teak, the writ petition is devoid of merit and is liable to be dismissed.

4. Heard Sri S.R. Sanku, learned counsel for the petitioner and Sri Veera Swamy, learned Government Pleader appearing on behalf of the respondents.

5. With respect to various contentions advanced by the petitioner, mainly on the aspect of the petitioner's family having nurtured the teak plantation, it is useful to notice the proceedings dated 02.05.1969 of the Collector, East Godavari district, Kakinada. In the Collector's report, it has been recorded in paragraphs 3 and 4 as under:

"3. The petition was got enquired into by the Sub-Collector, Rajahmundry and the District Forest Officer, Kakinada. Their reports reveal that the land which is locally known as "Cheemalamanulanka" in Maredupalli village of Rumpachodavaram taluk and which is situate in between the boundaries mentioned below is a mutta land in Maredumilli mutta and not a forest land. It is also accepted that the petitioner raised the Teak plantations in the said land at his cost and he is entitled to enjoy the yield.

The petitioner, Sri Katla Euggireddi is, therefore allowed to fell Teak plantations raised by him in the said land and export them to outside the agency area. But he is advised to plant a new tree for every tree he cuts down, when it is ripe for felling.

4. The District Forest Officer, Kakinada is requested to issue necessary permission to the petitioner.

Boundaries:

North: Chinturu Road

South: Cheedivada Kalva

East: Land of Sri Pallala Somireddi.

West: Batavla Garden of late Matla Borramreddi brother of Suggireddi.

Sd/-

B. Venkataswamy.

for Collector.

6. A careful reading of the extracted portion leave no manner of doubt that the permission to cut the trees was granted considering the fact that it was a Mutta land and the petitioner's grandfather was considered to be Muttadar at that particular point of time under the relevant rules and thereby he was found to be entitled to teak plantation as on that date. A reference is made that the petitioner's grandfather came to raise the plantation since 1936 which claim came to be enquired into by the then Collector and having found the same to be genuine, permission to cut and carry away the produce which was ripe for cutting was granted in the year 1969. While allowing the petitioner's grandfather to cut and carry away teak plantation, a condition was imposed that for every tree he cuts down, a new tree has to be planted. Though the language in the said letter used is as that Suggireddi is 'advised' to plant a new tree for every tree he cuts down, in the considered opinion of this Court, it is nothing but a condition, especially considering the fact that there was no consideration which was sought or claimed by the Government for allowing the said Suggireddy to occupy and raise the teak plantation in the Government land. Merely because the petitioner's grandfather was advised/directed to plant a new plant in place of every plant cut, there is no reason to presume that the arrangement which was in existence since 1936 was continued in the year 1969 especially considering the fact that the system of 'Mutta' was abolished, and the land came to be classified as Government land in the revenue records as 'Gayalu'.

7. A careful perusal of the report of the Tahsildar who had recommended for allowing the petitioner to cut and carry away the teak plantation would show that there is no material before him to make such a recommendation and so far as the Revenue Divisional Officer's recommendation is concerned, the Revenue Divisional Officer refers to the report of the Tahsildar. In other words, the Revenue Divisional Officer's conclusion or recommendation is not based on any independent material. The 1st respondent-Collector being the competent authority to take decision, having found no basis to allow the claim of the petitioner, had rejected the claim.

8. In that view of the matter, I do not find any infirmity or illegality in the order refusing the petitioner to cut and carry away the teak plantation and in issuing the

Endorsement dated 03.12.2010; and hence, the writ petition is liable to be dismissed.

9. Accordingly, the writ petition is dismissed. However, considering the passionate argument of the learned counsel for the petitioner, the petitioner is at liberty to approach appropriate Civil Court or Agency authority and seek redressal, based on the evidence. No order as to costs.

Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

CHALLA KODANDA RAM, J

26th March, 2015

ksm