

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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WRIT PETITION Nos.16288, 15034 and 17210 of 2011

Date:01.07.2015

WRIT PETITION No.16288 of 2011

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Between:

Gundla Chinnaiah,
S/o Poshaiiah and 11 others.

..... **Petitioners**

And:

The State of A.P., repled by its Secretary,
Revenue Department, Hyderabad and
three others.

.....**Respondents**

WRIT PETITION No.15034 of 2011

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Between:

Vavilla Rajaiah,
S/o Sammaiah and 9 others.

..... **Petitioners**

And:

The State of A.P., repled by its Secretary,
Revenue Department, Hyderabad and
three others.

.....**Respondents**

WRIT PETITION No.17210 of 2011

Between:

Thaiganeni Gattaiah,
S/o Mallaiah and 27 others.

..... **Petitioners**

And:

The State of A.P., repled by its Secretary,
Revenue Department, Hyderabad and
three others.

.....**Respondents**

Counsel for the Petitioner: Sri Nuthalapati Krishna Murthy

Counsel for Respondent Nos.1 to 3: None appeared

Counsel for Respondent No.4: GP for Forests (TG)

The Court made the following:

COMMON ORDER:

In these Writ Petitions the grievance of the petitioners is common, *viz.*, the Forest Department of the erstwhile State of Andhra Pradesh (presently the State of Telangana) is unduly interfering with their possession of Ac.1.00 of land each in Survey No.97 of Nandigam Village, Bhupalpalli Mandal, Warangal District. It is their pleaded case that the Mandal Revenue Officer, Bhupalpalli Mandal, has granted assignments to them in the year 1989 and that despite the said assignments, the Forest Department has been unduly interfering with their possession of the said land.

On behalf of the Forest Department, the Forest Range Officer, Bhupalpalli, has filed similar, but, separate counter-affidavits, wherein it is *inter alia* stated that an extent of Acs.410.00 of land out of Acs.497.25 guntas in Survey No.97 of Nandigam Village was included in the proposal of Nandigam Extension Reserve Forest and the said proposal was submitted to the then Government of Andhra Pradesh in the year 1989 and that therefore the pattas issued to the petitioners by the Revenue Department are illegal. The petitioners' plea of possession of the land was also denied in the counter-affidavit. Copies of the proposed notification have been enclosed to

the counter-affidavits.

The learned Government Pleader for Forests (Telangana State) has fairly admitted that though the proposals for declaring the extent of Acs.410.00 of land in Survey No.97 of Nandigam Village as reserve forest has been pending from the year 1968, so far, no notification declaring the said land as reserve forest has been issued.

Under Section-3 of the Andhra Pradesh Forest Act, 1967 (for short 'the Act'), the Government may constitute any land as reserve forest by following the procedure prescribed under the Act.

Under Section-4 of the Act, whenever it is proposed to constitute any land as reserve forest, the Government shall publish a notification in the Andhra Pradesh Gazette and in the District Gazette concerned in any;

- (a) specifying, as nearly as possible, the situation and limits of such land;
- (b) declaring that it is proposed to constitute such land as reserve forest;
- (c) appointing a Forest Settlement Officer to consider the objections, if any, against the declaration under Clause (b) and to enquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, or to any forest produce of such land, and to deal with the same as provided in Chapter-2.

Under Section 6 of the Act, the persons interested in the land are entitled to file their objections/claims before the Forest Settlement Officer. The Forest Settlement Officer has to determine the objections/claims of any person. After such determination, a final notification declaring the land as reserve forest shall be published under Section-15 of the Act.

In the instant case, as noted hereinbefore, even a preliminary notification has not been published under Section-4 of the Act, leave alone a final notification under Section 15 of the Act.

On the contrary, the Forest Department has not disputed the fact that the Revenue Department has issued pattas to the petitioners.

In my opinion, unless the notifications under Sections-4 and 15 of the Act are issued, the Forest Department cannot exercise control over the above-mentioned land merely based on the pendency of proposal for declaring the same as reserve forest.

The judgment of the Supreme Court in ***T.N.Godavarman Thirumulkpad Vs. Union of India and others***^[1], on which reliance has been placed by the learned Government Pleader, is of no avail to the Forest Department in the absence of any notification declaring the afore-mentioned land forest. In the said judgment it was *inter alia* held that the word “forest” must be understood according to its dictionary meaning and that the description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section-2(i) of the Forest Conservation Act, 1980.

In the instant case, so far, no notification has been issued declaring the land as forest and in the face of the admitted fact that pattas have been granted to the petitioners by the Revenue Department, the petitioners are entitled to enjoy the land. However, if in future the State Government takes any steps for declaring the afore-mentioned land as reserve forest, the petitioners are entitled to avail their remedy under Section-6 of the Act by making their claims before the Forest Settlement Officer.

In the light of the above discussion, the Writ

Petitions are allowed subject to the above observations.

As a sequel to disposal of the Writ Petitions, WPMP.No.19532 of 2011 and WVMP.No.2640 of 2011 in WP.No.16288 of 2011, WPMP.No.18061 of 2011 in WP.No.15034 of 2011 and WPMP.No.20678 of 2011 in WP.No.17210 of 2011 are disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*01st July, 2015
DR*

[\[1\]](#) (1997) 2 SCC 267