

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

WRIT PETITION Nos.17493 of 2011 and 31309 of 2012

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26.08.2015

W.P.No.17493 of 2011:

Between:

Miryala Musalaia

.. Petitioner

and

The Government of Andhra Pradesh,
represented by its Principal Secretary, Hyderabad and others

.. Respondents

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W.P.No.31309 of 2012:

Between:

Kotte Sanjeeva Rao and others

.. Petitioners

and

The Divisional Forest Officer, Khammam and others

.. Respondents

Counsel for the petitioners: Mr.Mummaneni Srinivasa Rao

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

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The Court made the following:

COMON ORDER:

In both these writ petitions, the grievance of the petitioners is that the respondents have been unlawfully and unduly interfering with their possession of the lands admeasuring Acs.4.20 cents in respect of the petitioner in W.P.No.17493 of 2011 and Acs.15.00 in respect of the petitioners in W.P.No.31309 of 2012 in survey No.262 of Sarapaka Village, Burghampadu Mandal, Khammam District, without following due process of law.

At the hearing, Mr.Mummaneni Srinivasa Rao, learned counsel for the petitioners, placed reliance on final order, dated 01.02.2008 in W.P.No.1744 of 2008 and an interim order, dated 17.04.2009 in W.P.M.P.No.8044 of 2009 in W.P.No.6158 of 2009, passed following the former final order. (The latter mentioned writ petition has since been disposed of, *vide* order, dated 11.12.2013.)

The relevant portion of order, dated 01.02.2008, in W.P.No.1744 of 2008, reads as under:

“In view of the submissions of the learned counsel for the parties, the writ petition is disposed of without going into the merits of the case with a direction to the respondents to give notice to the petitioners and an opportunity to show that the properties in question are not included in the reserve forest. In the event the respondents find that the said properties are included in the reserve forest, they shall pass order to that effect, after hearing the petitioners. Till then the respondents shall not interfere with the possession and enjoyment of the lands in question by the petitioners.”

The learned counsel for the petitioners submitted that though more than seven years had elapsed since the passing of final order in W.P.No.1744 of 2008, no enquiry has been conducted by the respondents to determine whether the subject land of the said writ

petition forms part of the reserve forest or not. He has further stated that the petitioners in these writ petitions are similarly situated to those in W.P.No.1744 of 2008.

In the counter-affidavits filed on behalf of the respondents, it is asserted that the lands in occupation of the petitioners form part of the reserve forest. The learned Government Pleader for Forests (TS), however, has stated that the respondents have not so far determined whether the subject land in W.P.No.1744 of 2008 forms part of reserve forest or not. Similarly, she has also submitted that so far proceedings under Section 20 (3) of the Andhra Pradesh Forest Act, 1967 (for short 'the Act') have not been initiated *qua* the petitioners. She has, however, submitted that the respondents will initiate such proceedings and pass appropriate orders.

In the light of the above facts and circumstances of the case, I am of the opinion that till a notice is issued to the petitioners as directed in order, dated 01.02.2008, in W.P.No.1744 of 2008; an opportunity to show that the subject land is not included in the reserve forest is afforded to them and an appropriate order is passed thereafter, the respondents shall not interfere with the petitioners' possession of the land in their occupation in survey No.262 of Sarapaka Village, Burghampadu Mandal, Khammam District.

These Writ Petitions are accordingly allowed to the extent indicated above.

As a sequel to allowing these writ petitions, W.P.M.P.No.21039 of 2011 in W.P.No.17493 of 2011 and W.P.M.P.No.39916 of 2012 in W.P.No.31309 of 2012 are disposed of and W.V.M.P.No.3118 of 2011 in W.P.No.17493 of 2011 and W.V.M.P.No.2595 of 2013 in W.P.No.31309 of 2012 are disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

26th August, 2015

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