

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.25079 OF 2014

AND

W.P.MP.No.49558 OF 2016

ORDER:

The petitioners claim that they are Tribals and are in possession of various extents of land in Compartment No.152 of Krishna Division, Mylavaram Range, Cheemalapadu Beat of Krishna District. It is their case that they were issued Certificates of Possession under the provisions of the Forest Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act 2 of 2007) and the Rules made thereunder. Alleging interference by respondent Nos.2 and 3, the present Writ Petition was filed.

2. Respondent Nos.1 to 3 filed a counter affidavit stating that the petitioners encroached the forest land in Compartment No.152, A. Konduru Reserve Forest of Mylavaram Range and were doing cultivation and the said encroachment was noticed in the year 2014. When steps were taken to evict them, they produced photostat copies of RoFR title deeds. A separate procedure is provided in the Act 2 of 2007 and the Rules made thereunder for issuance of the said title deeds. It seems, respondent No.3 got a doubt with regard to compliance of the procedure. Respondent No.3 addressed a letter to the District Tribal Welfare Officer, Krishna District, on 08.10.2014 to verify the above copies of RoFR title deeds and certify whether they are genuine or fake documents. The District Tribal Welfare Officer submitted a report on 27.10.2014 stating that the names of the

petitioners could not be traced in the first phase as per the records and second phase was not conducted in the Krishna District. In those circumstances, respondent No.3 got a doubt and issued a notice on 21.11.2014 to the petitioners to submit the original RoFR pass books. The petitioners produced copies of fabricated and fake documents to respondent No.3 and when it was noticed that they were fake documents, they approached this Court.

3. Six other Tribals of Kesya Tanda, Krishnaraopalem Gram Panchayat, A. Konduru Mandal, Krishna District, filed W.P.MP.No.49558 of 2016 seeking to implead themselves in the present Writ Petition as respondent Nos.5 to 10 and filed a document obtained under the Right to Information Act from the District Tribal Welfare Officer, who furnished the information on 01.07.2016 stating that only petitioner No.2 is having the genuine Certificate in respect of an extent of Ac.3-84 cents of land in Compartment No.152 of Krishnaraopalem and other petitioners were not given any Certificate under the provisions of the Act 2 of 2007. It appears that the petitioners in W.P.MP.No.49558 of 2016 are claiming Certificates under the provisions of the Act 2 of 2007 in respect of the same land, but their claim cannot be decided in the present proceedings and hence, W.P.MP.No.49558 of 2016 is dismissed.

4. However, since notice was issued by respondent No.3 on 21.11.2014 asking the petitioners to produce original Certificates issued under the provisions of the Act 2 of 2007, it is incumbent on

the petitioners to produce the original Certificates in order to satisfy respondent No.3. If respondent No.3 is not satisfied with regard to the genuineness of the said Certificates produced by the petitioners, in view of the report submitted by the District Tribal Welfare Officer on 27.10.2014, appropriate notice shall be issued to the petitioners with regard to the said report and after conducting an enquiry, a reasoned order shall be passed by respondent No.3 with regard to the genuineness of the Certificates, in order to enable the petitioners to challenge such an order, in the event that order goes against the petitioners. In the present Writ Petition, the petitioners have not impleaded the District Tribal Welfare Officer and hence, no direction can be issued to the District Tribal Welfare Officer. However, as the Certificates have to be issued under the Act 2 of 2007 by the Forest Rights Committee, the records of the Forest Rights Committee shall be called for by respondent No.3 before passing the said order.

5. The Writ Petition is accordingly disposed of. It is needless to observe that till passing such an order by respondent No.3, possession of the petitioners over the subject land shall not be disturbed.

6. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. There shall be no order as to costs.

A. RAMALINGESWARA RAO, J

December 29, 2016
MD

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