

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.9456 of 2014

ORDER:

The petitioners claim that they are the residents of Reddigudem Village and Mandal in Krishna District. It is their case that they are the absolute owners and are in possession and enjoyment of land admeasuring Acs.4.00 in Survey No.490/1 situated at Rangapuram Village, Reddigudem Mandal of Krishna District, which is their ancestral property. They state that pass book and other revenue records clearly show the name of their father and they have been paying land revenue regularly. Their father earlier filed a revision before the Director of Settlements, Survey and Land Records, Board of Revenue, Hyderabad, against the order of the Settlement Officer rejecting grant of patta, and after enquiry, the said revision was allowed setting aside the order of the Settlement Officer and holding that their father had purchased the said land prior to 01.07.1945 and had established his ownership in respect of the subject land. The said order in R.P.No.197 of 1965, dated 23.08.1965, has become final and the petitioners are eking out their livelihood by raising mango garden in the said land. While so, when respondent Nos.2 and 3 are trying to dispossess the petitioners from the subject land on the ground that part of the land falls within the forest area, the present Writ Petition is filed.

This Court, by order dated 27.03.2014, granted stay of dispossession of the petitioners from the subject land in view of the proceedings dated 23.08.1965 in R.P.No.197 of 1965 and the land revenue receipts filed by the petitioners. But, however, it was left open to the respondents to take appropriate action if the petitioners encroach into the forest lands.

Now a counter affidavit is filed along with a petition to vacate the said order dated 27.03.2014 stating that, the land claimed by the petitioners falls within the boundary line of Rangapuram Reserve Forest, which was notified under Section 15 of the Andhra Pradesh Forest Act, 1967, vide G.O.Ms.No.198, dated 20.04.1981. It was published along with boundary description of bearings and distances in the Krishna District Gazette dated 10.02.1986 at page No.37. The forest staff took geo-coordinates of the land and the map revealed that the land claimed by the petitioners is falling within the boundary line of reserve forest. Even though the Director of Settlements, Hyderabad, allowed the revision petition, when Section 6 proclamation of the Rangapuram Reserve Forest was issued containing the subject land of the petitioners, they should have put their claim before the Forest Settlement Officer. When the said proclamation was published in Krishna District Gazette on 15.11.1974, no claims were received for the subject land from the petitioners or their ancestors, and thereafter, the Rangapuram forest block was also notified as Reserve Forest under Section 15 of the Andhra Pradesh Forest Act, vide

G.O.Ms.No.198, dated 20.04.1981. The land claimed by the petitioners is part and parcel of Rangapuram Reserve Forest. The total extent in R.S.No.491/1 of Rangapuram Village is Acs.3459.54, out of which Acs.2375.00 is included in the Rangapuram Reserve Forest as per Section 15 Gazette Notification of Rangapuram Reserve Forest, and the proceedings of any authority in this regard is not preferable in the existence of Gazette Notification.

Learned Counsel for the petitioners submits that the revenue records clearly show the continuous possession of the petitioners for many years and also show that it is a private land. He further submits that the assertion of the respondents that the land claimed by the petitioners fall within the forest land is not supported by any documentary evidence.

It is a question of fact whether the land claimed by the petitioners falls within the boundary line area or outside the forest area, and the said question of fact cannot be decided on the basis of the affidavits. The petitioners have to approach the competent civil Court for appropriate remedy.

In the circumstances, this Court is not inclined to entertain the present Writ Petition, but in view of the petitioners' long possession and claim of title, they shall not be disturbed from the possession of the land for a period of three months from the date of receipt of a copy of this order. It is

open to the petitioners to take appropriate civil proceedings for protecting their possession and title, if any.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

29.12.2016
vs

(A.RAMALINGESWARA RAO, J)

