

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.20237 OF 2010

ORDER:

Heard Mr.S.Rajan for petitioners, the learned Government Pleader for Forests and the Assistant Government Pleader (Revenue).

The petitioners challenge order of 1st respondent in A.R No.6/2009 (Award No.5 of 2010) dated 26.06.2010. The issue arises under the A.P. Forest Act, 1967 (for short 'the Act'). The 1st respondent in purported exercise of his jurisdiction under Section 10 of the Act rejected the claim of petitioners. The Act provides for remedy of appeal under Section 13 of the Act against the decision of the 1st respondent. The petitioners filed the instant writ petition principally challenging the impugned order on the ground of violation of principles of natural justice and also that the 1st respondent relied upon material received from the District Collector, Visakhapatnam through communication dated 15.03.2010, which was not put to petitioners. The portion on which much emphasis is laid by the petitioners in the order impugned in the writ petition reads thus:

"During the enquiry held on 15.3.2010 the District Collector, Visakhapatnam submitted a report in Rc.No.901/2010/F4/dt.11.3.2010 stating that the Settlement Fair Adangal certified copy submitted by the petitioner to the Forest Settlement Court, is fake one and no such extract of certified copy of the S.F.A. has not issued by the Collectorate. Further the said claimed lands in Sy.No.35 and 36/1 and 36/2 of Kommadi Village,

Visakhapatnam (R) Mandal are classified as AWD i.e. Gayalu.”

The petitioners, therefore, pray for setting aside the order of 1st respondent and remit the matter to 1st respondent for consideration and disposal in accordance with law.

The counsel appearing for the respondents after taking note of three dates namely communication dated 15.03.2010, hearing the matter on 07.06.2010 and pronouncing order on 26.06.2010 finds it difficult to sustain the order or convince this Court that the material which is relied upon by the 1st respondent was, in fact, made known to petitioners or at least the petitioners were allowed to go through the same before the case is taken up for hearing. Normally, this Court where the remedy of appeal is provided by the scheme of the Act directs the parties to work out all the grievances against an order as per the scheme of the Act. In the case on hand, the writ petition was admitted on 17.08.2010 and interim order was granted. The interim order is subsisting. At this length of time, instead of relegating the matter to the appellate authority to canvass the same objection by the petitioners, this Court considers it appropriate, keeping in view the above submissions, to set aside the proceedings impugned in the writ petition and the same is set aside. The matter is remitted to 1st respondent for consideration and disposal afresh expeditiously, preferably within three months from the date of receipt of a copy of this order.

The 1st respondent is further directed to afford opportunity to both the parties to the lis. The petitioners, if choose to look into the contents or documents annexed along with letter dated 15.03.2010 of District Collector, are to file a memo for inspection of documents and the 1st respondent permits the petitioners to go through the documents.

The writ petition is ordered as indicted above. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 03.08.2017
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S.V. BHATT, J

