

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.Nos.17971 and 25557 of 2016

COMMON ORDER:

Since these two writ petitions are inter-related and raise common question of law, this Court deems it appropriate to dispose of these writ petitions by way of this common order.

2. W.P.No.17971 of 2016 is filed under Article 226 of the Constitution of India, for the following relief:

“To issue a Writ or direction or order more in the nature of Writ of mandamus against the respondents declaring that filing the case under forest act and further seizing the L&T John Deere Tractor bearing No. AP 15 AU 6489 registered with RTA Warangal during the order of the Hon'ble Court dated 10th April, 2013, made in W.P. M.P.No. 9772 of 2013 in W.P. 7805 of 2013, are in force as illegal, obstruction of fair legal proceedings in the Hon'ble Court, scant respect towards orders of the Hon'ble High Court, violation of articles 21 and 300 (A) of Constitution of India and consequently to set aside the proceedings initiated by 4th Respondent vide POR under File No.12/0R/M/2016-17 dated 20-05-2016, on the file of Judicial First Class Magistrate, Parkal, District Warangal

3. W.P.No.25557 of 2016 is filed under Article 226 of the Constitution of India, for the following relief:

“To issue a writ or direction or order more in the nature of writ of mandamus declaring the action of the respondents in filing the POR (Preliminary Offence Report) No.3111, dated 22-06-2016 issued by 5th respondent i.e. FBO, WC Katrapally, Range Mulugu, V&M Mulugu, Warangal District, as illegal, ultravires, contrary to the Criminal procedure code and violation of articles 14, 20 (2) and 300 (A) of constitution of India and consequently to set-aside the POR No.3111 dated 22-06-2016, issued by 5th

respondent i.e. FBO, I/C Katrapally, Range Mulugu, V&M
Mulugu, Warangal District, forthwith.”

4. Heard the learned counsel for the petitioners Sri Nageswara Rao Turaga and the learned Government Pleader for Forests for the respondents.

5. According to the petitioners in W.P.No.17971 of 2016, petitioners 1 to 17 are agriculturists and petitioners 18 to 21 are coolies and petitioner No.22 is the owner of the vehicle Tractor bearing No.AP 15 AV 6489.

6. According to the petitioners in W.P.No.25557 of 2016, petitioner No.1 is the son of petitioner No.25 in W.P.No.7805 of 2013, petitioner No.2 is the person who brought breakfast to the first petitioner and petitioner No.3 is the cousin of petitioner No.23 in W.P.No.7805 of 2013. Petitioner No.4 is the petitioner No.15 in W.P.No.7805 of 2013, petitioner No.5 is the son of petitioner No.23 in W.P.No.7805 of 2013 and petitioner No.6 is the son of petitioner No.13 respectively.

7. Earlier, petitioners 1 to 16 in W.P.No.17971 of 2016 approached this Court by way of filing W.P.No.7805 of 2013 against the Divisional Forest Officer, Warangal and Forest Range Officer, Mulugu who are the respondents 2 and 3 in W.P.17971 of 2016. In the said W.P.No.7805 of 2013, petitioners also filed WPMP.No.9772 of 2013, and this Court by way of an order dated 10.04.2013, directed the respondents not to interfere with the petitioners possession in respect of the land covered by the order dated 30.12.1976 passed by the Forest Settlement Officer, Warangal.

8. By way of the said order dated 30.12.1976, the Forest Settlement Officer ordered exclusion of the cultivated land to the extent of 1101 Acres and 5 guntas from out of Sy.No.168 of Katrapalli village of Forest Block under

Section 15 of the Forest Act and directed to send the revised map and field book.

9. The grievance of the petitioners in these writ petitions is that during the subsistence of the said order dated 10.04.2013 passed in WPMP.No.9772 of 2016 in W.P.No.7805 of 2013, the respondents herein have trespassed into the subject land, obstructed the ploughing and registered the cases under Forest Act and seized the vehicles. Earlier, on a complaint made by the 5th respondent herein, the Station House Officer, Shyampet registered Crime No.62 of 2016 against the petitioners 1 to 3 in W.P.No.25557 of 2016 and assailing the said registration they filed Crl.P.No.9999 of 2016 and in the said Criminal Petition this Court in Crl.MP.No.10821 of 2016 granted interim stay on 13.07.2016. In W.P.No.25557 of 2016 filing of Preliminary Offence Report in POR.No.3111 dated 22.06.2016 by the fifth respondent is under challenge. Obviously, all these transactions pertain to the land covered by the orders passed by the Forest Settlement Officer, Khammam on 30.12.1976. According to the learned counsel for the petitioners, the impugned action on the part of the respondent authorities in meddling with the subject property during the subsistence of the interim orders passed by this Court in W.P.No.7805 of 2013 and the orders of the Forest Settlement Officer dated 30.12.1976 is highly illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India. It is further submitted by the learned counsel for the petitioners that earlier also when similar action was resorted to by the respondents, petitioners herein filed W.P.No.42503 of 2015 and this Court disposed of the said writ petition with a direction in favour of the petitioners herein.

10. On the contrary, it is strenuously contended by the learned Government Pleader that the order of the Forest Settlement Officer dated

30.12.1976 is forged and fabricated by the petitioners herein and the petitioners herein have never been in possession of the land. The learned Government Pleader strenuously defends the version of the respondents by contending that since the petitioners herein attempted to cultivate the Reserve Forest Land, there is no illegality nor irregularity in the impugned action, as such, the present writ petitions are not maintainable under Article 226 of the Constitution of India.

11. The information available before this Court, in clear and unequivocal terms, reveals that previously petitioners 1 to 16 in W.P.No.17971 of 2016 invoked the jurisdiction of this Court under Article 226 of the Constitution of India by filing W.P.No.7805 of 2013, questioning the action on the part of the respondents herein in seeking to dispossess them from the land in Sy.No.168 of Katrapalli, Gorikottapalli, Nizampalli, Gangirenigudem, Gandhinagar, Sadanpally, Mallampally, Rajapally villages, Sayampet Mandal, Warangal District obviously, placing reliance on the orders of the Forest Settlement Officer dated 30.12.1976 wherein the Forest Settlement Officer directed exclusion of an extent of 1101 acres and 5 guntas of land in Sy.No.168. There is absolutely no dispute with regard to the fact that in the said writ petition in W.P.No.9772 of 2013, this Court passed the following order:

“The discrepancy in the counter and the letter, dated 25.03.2013, addressed by the Divisional Forest Officer, Warangal North Division, to the Forest Settlement Officer, Warangal, as regards the order dated 30.12.1976 relied upon by the petitioners indicates that the said counter was filed with scant respect to the truth of the contents thereof.

The learned Assistant Government Pleader seeks time to verify this aspect.

Pending further orders, there shall be a direction to the respondents not to interfere with the petitioners' possession in

respect of the land covered by the order dated 30.12.1976 passed by the Forest Settlement Officer, Warangal.”

12. There is absolutely no controversy on the reality that the said writ petition is still pending consideration before this Court. Another significant aspect which needs mention in this context is that earlier when the respondents resorted to similar action, petitioners herein filed W.P.No.42053 of 2015 before this Court and this Court disposed of the writ petition by way of an order dated 13.12.2015 and paragraphs 3 to 5 of the said order read as under:

“3. Petitioners contend that seizing of the said vehicle is not warranted since the tractor was engaged in ploughing the land belonging to the petitioners and the petitioners had obtained an order dt.10.04.2013 in WP.MP.No.9772 of 2013 in W.P.N.7085 of 2013 restraining the respondents from interfering with the petitioners' possession in respect of the land in their occupation, which is covered by order dt.30.12.1976 of the Forest Settlement Officer, Warangal.

4. The Government Pleader for Forest on instructions states that the respondents have been advised to withdraw the POR and that within one week from today the said POR would be withdrawn and the vehicle in question would be released to the 19th petitioner, who is the owner of the said vehicle.

5. In view of the said submissions, this Writ Petition is disposed of directing the respondents to withdraw the POR case No.83/OR/M/201516 on the file of the Judicial First Class Magistrate, Parkal, Warangal District within one (01) week from today and release Swaraj Tractor bearing No.TS 03 ETR 8176 to the 19th petitioner subject to his producing documents in proof of ownership. There shall be no order as to costs.”

13. As the interim orders passed by this Court in WPMP.No.9772 of 2013 in W.P.No.7805 of 2013 are still subsisting and as the petitioners herein are claiming their right over the property in terms of the orders of the Forest Settlement Officer dated 30.12.1976, this Court does not find valid

justification on the part of the respondent authorities in resorting to the impugned action and this Court has absolutely no scintilla of hesitation to hold that the actions impugned in the present writ petitions are liable to be set aside.

14. For the aforesaid reasons, writ petitions are allowed, setting aside the impugned proceedings vide POR under File No.12/OR/M/2016-17, dated 20.05.2016 and POR No.3111, dated 22.06.2016, respectively, and the respondents are directed to release the seized vehicles. As a sequel, miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

Date: .06.2017
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A.V.SESHA SAI, J

THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.Nos.17971 and 25557 of 2016

Dated .06.2017

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