

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.40006 of 2017

ORDER:

This writ petition is filed seeking the following relief/s:

‘....to issue an appropriate writ order or direction, more in the nature of mandamus declaring notice of the 2nd respondent dt.06-10-2017 in proposing to conduct enquiry in respect of entire extent of our land in Sy.No.36/1 in an extent of Ac.36.74 as same is illegal, arbitrary, inherent lack of jurisdiction and also beyond the scope of Notification U/S4 of the Forest Act apart from stand taken by the respondents earlier and pass such other order or orders...”

I have heard the submissions of the learned counsel for the petitioners and of the learned Government Pleader representing the respondents. I have perused the material record.

The grievance of the petitioners is this: ‘Earlier, the petitioners challenged the order of the 2nd respondent in A.R.No.6/2009 (Award No.5 of 2010), dated 26.06.2010, by filing W.P.No.20237 of 2010. This Court, while disposing of the said writ petition and while setting aside the afore-said Award, remitted the matter to the 1st respondent therein for consideration and disposal of the matter afresh expeditiously and preferably within three months from the date of receipt of a copy of the said order. Thereafter, the impugned notice, dated 06.10.2017, was issued by the Forest Settlement Officer, Visakhapatnam-2nd respondent herein proposing to conduct Forest Settlement Court, on 17.10.2017, at 11:00 AM., and, accordingly the petitioners herein were directed to attend the Court/enquiry before him at the place specified in the notice along with all relevant documents of the petitioners in

respect of their claim over the subject land in an extent of Ac.36.74 cents in Sy.no.36/1 of Kommadi village of Visakhapatnam Rural Mandal. Aggrieved thereof, the petitioners came to this Court.' Their submissions are as follows: 'In the earlier writ petition afore-stated, the Tahasildar concerned and the Divisional Forest officer in their pleadings stated that only an extent of Ac.10.45 cents in Sy.No.36/1 of Kommadi village is within the forest boundary and the remaining extent is outside the forest boundary. But, the present notice was issued to produce documents of the petitioners in respect of their claim related to the entire extent of land. A Board is also installed at the disputed land stating that the land is a Reserved Forest land. Therefore, the impugned notice calling upon the petitioners to produce documents in respect of their claim for the undisputed extent of land is untenable.'

Learned Government Pleader would submit as follows: 'When once the land is notified as Reserved Forest Land, the Forest Settlement Officer is obliged under law to conduct an enquiry. Therefore, the subject notice was issued; it is only a notice calling upon the petitioners to attend the enquiry. Hence, the petitioners can participate in the enquiry and raise all their defences which the facts and law permit. The writ petition is not maintainable.'

Learned counsel for the petitioner would submit that if the writ petition is disposed of while protecting the interests of the petitioners, the ends of justice would be met. He would also bring to the notice of the Court that a *status quo* order is granted to the

petitioners and that the interim orders are in their favour since a long time.

Recording the afore-said submissions, the Writ Petition is disposed of directing the petitioners to attend the enquiry before the Forest Settlement Officer on the date and time fixed by him and submit all their material documents in respect of their claim over the subject land as mentioned in the notice; further, the Forest Settlement Officer is directed to dispose of the matter in strict accordance with the procedure established by law. It is made clear that the petitioners are at liberty to raise before the said authority all defences and claims which the facts and law permit. Till such exercise is completed by the Forest Settlement Officer, Visakhapatnam, both the parties are directed to maintain absolute *status quo* as on today.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

28.11.2017
Vjl