

THE HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.1860 of 2016

ORDER:

Heard the learned counsel for the petitioners as well as the learned Government Pleader appearing for the respondents 4 to 6.

The prayer in the writ petition is as under:

“..... that this Hon'ble Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of “Writ of Mandamus” declaring the action of the respondent authorities in trying to dispossess the petitioners from the forest lands to the extent of Ac.75-00 situated at Arlagudem Block, Mariagudem Grampanchayat, near Gangavaram, Dummugudem Mandal, Khammam District as illegal, arbitrary and without following the procedure prescribed under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act 2 of 2007) and Rules 2007 and consequently direct the respondents not to dispossess the petitioners from the lands and may pass such other Order or Orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

The facts of the case are that all the petitioners belong to scheduled tribe community and they are in possession of the lands in the Reserve Forest Block in an extent of Ac.75.00. While the matter stood thus, since the respondent authorities were trying to dispossess the petitioners by interfering in their agricultural operations, they have requested the authorities to issue show-cause notice and seek explanation in the matter. However, the respondent authorities refused to accept the request of the

petitioners, thereby, the petitioners were constrained to file this writ petition.

The respondents 4 to 6 have filed counter affidavit denying the averments made in the affidavit filed in support of the writ petition and contended, *inter alia*, that out of 20 petitioners in the present writ petition, the Sub Divisional Level Committee have rejected the claims of 8 petitioners on the ground that they were not in possession and enjoyment of the land on the cut off date i.e. 13.12.2015 as mentioned in Section 4(3) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Therefore, they are not entitled for the relief in the writ petition.

Learned Government Pleader brought to the notice of this Court that against the order passed by the Sub Divisional Level Committee, an appeal lies to the District Level Committee under Rule 12(A)(4) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2006. In the counter affidavit, it is categorically stated that the claims of 8 petitioners herein were rejected by the Sub Divisional Level Committee on 16.8.2008 by showing the reason that these lands were encroached in the year 2007 during Bhooporatam. The then Divisional Forest officer, Bhadrachalam has attended the Sub Divisional Level Committee held on 16.8.2008 and signed the resolution passed at the 7th Sub Divisional Level Committee. The rejected claims of the eight petitioners was also enquired by the Sub Collector through Rc.No.H/323/2016 dated 1.3.2016.

In the light of the above, no cause would survive in the present writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. However, liberty is given to the petitioners to file an appeal under Rule 12 (A) (4) of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2008, within a period of four weeks from the date of receipt of copy of this order. On such appeal being filed, the District Level Committee is directed to consider the same and pass appropriate orders, as expeditiously as possible.

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

JUSTICE P.KESHA RAO

Date: 26/04/2018

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