

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.13891 of 2007

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner requesting to issue a writ of *mandamus* or any other appropriate writ or order directing the respondents to act in accordance with law and to give effect to the orders passed by the then Settlement Officer in R.C.No.10/ 70-B, dated 23.08.1977, and consequently, release and restore the land of an extent of Acs.450.00 cents to the petitioner in terms of the said order, after due localization and survey of the same with reference to the sale deeds of the predecessors of the petitioner and thereby enable him to enjoy the benefit of the said land by updating the revenue records in his favour, and grant such other relief as deemed fit in the circumstances of the case.

2. I have heard the submissions of Sri S. Niranjan Reddy, learned Senior Counsel appearing for Sri T. Hanuman Singh, learned counsel for the petitioner, of learned Government Pleader for Forests appearing for respondents 1, 3 & 4; and, of learned Government Pleader for Revenue appearing for respondents 2, 5 and 6. I have perused the material record.

3. The case of the petitioner, in brief, is as follows:

'The ancestors of the petitioner purchased Acs.1450.00 cents of land in Survey No.11 of Machupalli Shotriyam Village, Khajipet Mandal, Kadapa District, from the then Shotriyamdars during the period 1946-1955. The details of the said sale deeds under which the said land was purchased by the ancestors of the petitioner are as follows: '(1)

document no.676/ 1946, dated 09.04.1946, registered on 09.04.1954; (2) document no.1883/ 1954, dated 24.08.1954, registered on 25.08.1954; (3) document no.1884/ 1954, dated 24.08.1954, registered on 25.08.1954 and (4) document no.2484/ 1955, dated 12.12.1954, registered on 20.02.1955'. The purchasers under the said documents namely, Chinreddy Ram Reddy, Chinreddy Sessa Reddy, Chinreddy Varada Reddy, Tummaluru Veera Reddy and Battala Keshavulu respectively are the predecessors in interest of the petitioner. The inamdars of Machupalli Village have paid cist to the Government up to 1367 Fasli and there are no arrears of cist. From out of the said extent of Acs.1450.00 cents in various paimaishy numbers in the said Village, an extent of Acs.1000.00 cents is under cultivation and the remaining land was illegally included in a proposed Reserve Forest Block by the Forest Department of the State. Chinna Reddy Hanumantha Reddy i.e., the father of the petitioner and others filed a claim petition before the Forest Settlement Officer under Section 10 of the A.P. Forest Act, 1967 (for short, 'the Act of 1967'), on 26.08.1974, stating that the entire Machupalli Shotriyam land admeasuring Acs.1450.00 cents is their patta land, and, hence, the same is liable to be excluded from the Reserve Forest Block pursuant to the Notification of the year 1971. The then Forest Settlement Officer, by order, dated 20.10.1974, had accepted the claim and passed orders directing deletion of the said extent of Acs.450.00 cents of land, which was erroneously included in the Reserve Forest Block. The said order was set aside in appeal by the District Judge, Kadapa, by an order, dated 17.06.1976, in Appeal No.3 of 1975, and the matter was remanded for fresh consideration by the Forest Settlement Officer. After remand, the then Forest Settlement Officer again passed orders, dated 23.08.1977, to the effect that if the land of Acs.450.00 cents is to be

retained in the Forest Block, the same requires to be acquired within three months, and failing which, the land should be eliminated from the Reserve Forest Block. This time, the appeal filed by the Divisional Forest Officer, Proddatur, in Appeal No.1 of 1978 before the District Judge, Kadapa, failed and the matter has become final since no further legal steps were taken to assail the judgment rendered in the said Appeal No.1 of 1978. On the strength of the said order of the Forest Settlement Officer, representations were submitted before the Revenue Officers for mutation and updating the revenue records. The said representations have not taken final shape in view of the lack of coordination between the Revenue Department and the Forest Department. Machupalli inam land in Kadapa Taluq and District was notified and taken over by the Government under the provisions of the Estates Abolition Act, 1948, in the year 1959. No notification was published under Section 13 of the A.P. Survey and Boundaries Act, 1923, and no compensation was paid to the inamdars under Section 50(a) of the Act of 1948. A joint inspection was conducted, on 08.12.2005, by the Officers of the Revenue Department of the State. However, the inspection could not be completed on flimsy grounds that the proposed Reserve Forest Block is pertaining to Lankamalla Wild Life Sanctuary and therefore, attracts the provisions of the Forest (Conservation) Act, 1980 (for short, 'the Act of 1980') and hence, permission of Government of India is necessary for survey and demarcation in Wild Life Sanctuary. This view of the Revenue and Forest Departments is totally erroneous since there is no final notification of the Reserve Forest Block pursuant to the preliminary notification under Section 4 of the said Act in the year 1971 till today. As per Section 15 of the Act of 1967, a final notification should be issued in line with the claims decided by the Forest Settlement Officer. Since no

such final notification has been issued so far, the question of treating the same as Reserve Forest and expecting or requiring permission from the Government of India under the Act of 1980 is totally unnecessary. The petitioner is deprived of his legitimate entitlement to Acs.450.00 cents of land based on the orders passed by the Forest Settlement Officer which have become final. His requests for demarcation and exclusion of the said land from the proposed Reserve Forest Block have not yielded any response from the Forest and Revenue Departments of the State. The order of the Forest Settlement Officer, which was passed after remand, was confirmed in Appeal No.1 of 1978 by the District Judge, Kadapa. It is incumbent upon the respondents to conduct the necessary demarcation and exclude the said Acs.450.00 cents of land from the proposed Reserve Forest Block so that his legitimate entitlement is translated into a practical utility value. The petitioner submitted several representations in this regard requiring the respondents to exclude the said extent of Acs.450.00 cents of land from the Reserve Forest Block in Survey No.11 of Machupalli Shotriyam Village, Khajipet Mandal, Kadapa District. Due to lack of legal awareness and also due to trust and confidence that the authorities would restore to him the extent of Acs.450.00 cents of land, the petitioner filed Land Ceiling Declaration and the same was computed to his holding as per C.C.No.1070 of 1975. The inaction on the part of the respondents in giving effect and implementing the orders of the Forest Settlement Officer and thereby avoiding to release and restore the petitioner the extent of Acs.450.00 cents of land in Survey No.11 of Machupalli Shotriyam Village, is arbitrary and illegal. Hence, the writ petition is filed.'

4. On 03.07.2007, this Court admitted the writ petition. However, no interim order is granted.

5. The Divisional Forest Officers, Proddatur, filed a counter affidavit and an additional counter affidavit. The relevant averments in the said counter affidavit and additional counter affidavit are as follows:

‘As per the letter, dated 04.02.2000, in D.O.Lr.No.1162/ For-I/ 99, of the Principal Secretary to Government, Environment, Forests, Science & Technology Department, Hyderabad, there are no sale transactions registered from 1946 to 1979 in respect of Survey No.11 i.e., the land of an extent of Acs.2470.50 cents of Machupalli Village, as per the records of the Sub Registrar, Kadapa. In the enquiry report of the Principal Secretary, it was mentioned that Machupalli Village in Khajipeta Mandal of Kadapa District was originally a Shotriyam village and was taken over by the Government under the provisions of the Act of 1948, and that the total extent of the lands in Machupalli Village is Acs.2519.11 cents, and that out of which the land in Survey No.11 to the extent of Acs.2470.50 cents is a Government poramboke land and classified as “Forest” as per the accounts of the villages. The alleged land in Sy.no.11 to the above said extent vested in the Government. Out of which, Ac.1085.00 cents was handed over to the Forest Department, on 13.04.1964, as per terms of G.O.Ms.no.2348 (Revenue Department), dated 23.12.1958. The remaining Ac.1385.50 cents vested in the Revenue Department. Ever since the shotriyam village was settled in favour of the Government. The entire land vested with the Government as per Section 3 of the Estates Abolition & Conversion into Ryotwari Act, 1948. Soon after the abolition of the Estate, though the individuals have purchased the lands from the original Shotriyamdars, they do not derive title to the lands without obtaining pattas from the Assistant Settlement Officer either

under Section 11 or Section 15 of the Act of 1948. The land was not subdivided showing Acs.1085.00 cents and Acs.1385.50 cents in two separate sub-divisions in Survey No.11 as stated by the petitioner. There are no sale transactions registered from 1946 to 1979 in respect of the land of an extent of Acs.2470.50 cents in Survey No.11 of Machupalli Village, as per the records of the Sub Registrar, Kadapa. Basing on unregistered sale documents, the Forest Settlement Officer, Nellore, considered the claim put forward by C. Hanumantha Reddy and others in respect of an extent of Acs.1450.00 cents and treated them as real owners and ordered elimination of entire block to an extent of Acs.1085.00 cents from Reserve Forest in his order No.10/ 70, dated 20.10.1974. The Forest Settlement Officer has not discussed how the title over Acs.1450.00 cents of land was acquired by C. Hanumantha Reddy and others in his two judgments viz., one passed prior to remand; and, the after the remand. Though such an issue is an important issue, the same was not decided by him. The area in question was notified under Section 4 of the Act of 1967, in 1970, and it was published in Kadapa District Gazette during 1971. A Forest Settlement Officer was appointed to settle the public claims with a view to finally reserve the block under Section 15 of the Forest Act, 1967. The public claims have to be settled fixing a period not less than six months and not more than one year from the date of publication of such proclamation in the Gazette i.e., upto March, 1972. But, the Forest Settlement Officer, Nellore, received claims from Hanumantha Reddy during August, 1974, and ordered elimination of the entire block from reserve forest in his order No.10/ 70, dated 20.10.1974, basing on the records produced by the petitioners therein. When the entire land was acquired under the Act of 1948, and the land vested with the Government and was also

classified as "Forest" as per the village accounts, the question of purchase of Acs.1450.00 cents of land by the ancestors of the petitioner from the original shotriyamdars will not arise. Further, the petitioner has not produced any relevant documents. The final notification of the block under Section 15 of the Act could not be taken up due to the following reasons: - 'After remand, the Forest Settlement Officer, Nellore, once again passed orders in R.C.No.10/ 70, dated 23.08.1977, to acquire the land from the claimants with the permission of the Government to constitute the area as Reserve Forest and pay compensation to the claimants upholding their rights. The Forest Department filed an appeal and the same was dismissed by the Estate Abolition Tribunal (District Court), Kadapa, *vide* judgment dated 18.04.1980, in EAT No.1/ 1978. C.Hanumanth Reddy and others filed W.P.No.7957 of 1998 before this Court for survey of the land in Survey No.11 and demarcation of the lands of the petitioners therein of an extent of Acs.1450.00 cents. This Court dismissed the said writ petition for non prosecution by orders, dated 14.09.1998, as the petitioners did not appear and as they were not having any merits in the said writ petition.' The land of an extent of Acs.2470.50 cents in Survey No.11 of Machupalli Village is a Government Poramboke and is classified as "Forest" as per the accounts of the villages. As per Part-C, Chapter-I of the Act of 1980, the term "Forest Land" mentioned in Section 2 of the Act refers to reserved forest, protected forest or any area recorded as forest in the Government records. The lands notified under Section 4 of the Indian Forest Act would also come within the purview of the Act. It would also include "forest" as understood in the dictionary sense. All proposals for diversion of such areas to any non-forest purpose, irrespective of its ownership would require the prior approval of the

Central Government. The final notification of the block under Section 15 is under process. In the notification of Lankamalleswara Extension Reserve Forest under Section 4 of the Madras Forest Act (V of 1882), it was mentioned that the proposed reserve includes certain areas claimed by the shotriyamdars of the following other villages: Chennamukkapalli, Devalatapuram, Machupalli, Venkatapuram and Gopalapuram. As per Chapter I, Part C of the Act of 1980, survey, investigation and exploration shall not be carried out in wildlife sanctuaries, national parks and sample plots demarcated by the Forest Department without obtaining prior approval of the Central Government whether or not felling of trees is involved. As per the letter, dated 04.05.2001, *vide* No.11-9/98-FC, of the Government of India, Ministry of Environment and Forests, the State Governments are advised not to submit any proposal for diversion of forest land in national parks and sanctuaries under the Act of 1980, without seeking prior permission of the Supreme Court. Hence, survey in Sri Lankamalleswara Wildlife Sanctuary requires permission of Government of India. The alleged extent of Acs.2470.50 cents of land in Survey No.11 was taken over by the Government in 1958 under the provisions of the Act of 1948. Out of the said extent of Acs.2470.50 cents, which was classified as "Forest", Acs.1085.00 cents was notified under Section 4 of the Act of 1967 in the year 1970 and published in the Kadapa District Gazette during 1971. The claims made by C. Hanumantha Reddy in the year 1974 i.e., after 2 ½ years cannot be settled as per the Act of 1967. As per the records furnished by the Assistant Director, District Survey and Land Records, Kadapa, in Pc.No.A3/108/2013, dated 28.12.2013, addressed to the District Collector, Kadapa, it is seen that an area of Acs.43.73 cents in Survey Nos.1 to 7 pertains to Machupalli Village as per the records compiled in

the survey operations of 1937-1938. The remaining area was noted as Machupalli Hill as per the 1938 survey map. The details of the survey number wise area is as noted below:

Name of the District	Name of the Mandal	Village Number	Name of the Village	Survey Number	Acres. Cents	Remarks
YSR Kadapa	Khajipet	5	Machupalli	1	5.52	
				2	0.84	
				3	3.20	
				4	9.80	
				5	4.09	
				6	9.80	
				7	10.48	
				Total Area	43.73	

Subsequently, the said area was resurveyed in 1959-60 and classified the survey numbers from 1 to 11 viz., Survey Nos.1 to 10 as Village lands and Survey No.11 as North Nallamala Forest which was originally declared as Lankamalla Reserve Forest in 1892.

Name of the District	Name of the Mandal	Village Number	Name of the Village	Survey Number	Acres. Cents	Remarks
YSR Kadapa	Khajipet	5	Machupalli	1	2.44	
				2	1.19	Rastha pro
				3	1.25	Rastha pro
				4	5.52	
				5	0.84	
				6	3.20	
				7	9.80	
				8	4.09	
				9	9.80	
				10	10.48	
				11	2674.50	(North Nallamala Forest)
				Total Area	2723.11	

At present it is Sri Lankamalleswara Wildlife Sanctuary declared vide G.O.Ms.No.97, EFS & T (For-III), Department, dated 17.07.1998. Out of the land of an extent of Acs.2470.50 cents in Survey No.11 of Machupalli Village, Acs.1085.00 cents was notified as Machupalli Forest under

Section 4 of the Act of 1967 in G.O.Ms.No.410 dated 10.03.1970 and gazette notification dated 27.02.1971. As per the Machupalli Inam map supplied by the Commissioner, Survey & Land Records, A.P., Hyderabad, it has been surveyed and super imposed on Survey of India Sheet (map). From the super imposed sketches, it could be seen that Machupalli Inam area of Acs.2470.50 cents inclusive of Acs.1085.00 cents of Machupalli Forest Block falls in Sri Lankamellswara Wildlife Sanctuary. The details of the same are mentioned in the table below:

Sl.No	Name of the Reserve Forest	Compt. No.	Approximate area (in Ha)	Area in acres
1	Lankamalla Extension Reserved Forest	97	504.82	1247.42
2		92	45.72	112.97
3	Lankamalla RF	96	29.73	73.46
4	Machupalli Forest Block	99	439.23	1085.33
		Total	1019.50	2519.18

When the extent of Acs.2470.50 cents in Survey No.11 of Machupalli Village was transferred to Government which falls in Sri Lankamalleswara Wildlife Sanctuary area, it is not understood as to how the alleged area of Acs.1450.00 cents is available for purchase by the ancestors of the petitioner who failed to produce documents. After survey and settlement, the area of the village was settled as follows:

Sl. No.	Survey No.	Extent in Acs.	Classification
1	1	2.44	Unreserved
2	2	1.19	Road
3	3	1.25	Road
4	4	5.52	Patta
5	5	0.84	Patta
6	6	3.20	Patta
7	7	9.80	Patta
8	8	4.09	Patta
9	9	9.80	Patta
10	10	10.48	Patta
11	11	2470.50	Forest
	Total	2519.11	

During the meeting held with the Joint Collector, Kadapa, Revenue Divisional Officer, Kadapa, Assistant Director, District Survey & Land Records, Kadapa, Forest Settlement Officer, Kadapa and Tahsildar, Khajipet, on 28.12.2013, it was ascertained that no ryotwari pattas should be given from Shotrium or Inam lands and permitted for sale unless pattas are given. The Revenue Department has not issued any title to any farmers who are said to be purchasers of Machupalli Shotriyam. The Principal Secretary, EFS & T Department, during the enquiry on Machupalli Block noticed *vide* D.O.Lr.No.1162/ For.I/ 1999, dated 04.02.2000, that all big leaders of different areas from far of places have unauthorisedly occupied the land and it is in their possession and no one amongst them is a landless poor person. During August, 1974, C. Hanumantha Reddy and others claimed that the area of Acs.1450.00 cents of land in Survey No.11 of Machupalli Village was purchased by them during the period 1946 to 1956. The Forest Settlement Officer has declared them as real owners of the entire block and ordered elimination of the entire block from reserve forest *vide* his Order No.10/ 70 dated 29.10.1974 basing on the records produced by the petitioners. The Divisional Forest Officer, Proddatur, then filed an appeal before the Court of the Estate Abolition Tribunal and District Judge, Kadapa, under Section 13 of the Act of 1967, against the said orders passed by the Forest Settlement Officer, Nellore, stating that the Forest Settlement Officer had entertained the belated claims of the petitioners therein, and that the claims made upto March 1972 i.e., within six months only have to be received; but, the Forest Settlement Officer accepted the said claim even though he received it, on 26.08.1974 i.e., with a delay of 2 ½ years. The Forest Settlement Officer has no right to consider the claim after 2 ½ years. The Forest

Settlement Officer was not right in considering the claim after 2 ½ years. Hence, the order of the Forest Settlement Officer is void, invalid and it cannot be recognized. Even the appeal before the Estates Abolition Tribunal would be inappropriate and not to be taken into consideration as the Tribunal will not have jurisdiction to entertain appeal once it is notified as 'Reserve Forest'. The Forest Settlement Officer, Nellore, in his proceedings, dated 22.08.1977, held that the entire land is quite fit to be constituted as Reserve Forest and directed the Forest Department to propose the area as reserve forest. If the petitioners have any true claim, they could have obtained ryotwari pattas under Section 11(a) of the Andhra Area Abolition Act or they could have pursued their claims even at the time of survey and settlements or resurvey of the lands prior to preliminary notification under Section 4 of A.P. Forest Act or they could have filed their claims within the period prescribed after proclamation under Section 6 of the A.P. Forest Act, 1967, which they did not do and they managed to get the claims considered by the then Forest Settlement Officer after the period prescribed under Section 6 of the A.P. Forest Act. Therefore, the order of the Forest Settlement Officer becomes null and void. And the further proceedings will not bind on the authorities as the matter does not come under the purview of the A.P. Forest Act. The Estate Abolition Tribunal can consider only the claims either considered or rejected under Estate Abolition Act, but, not under the A.P. Forest Act. Hence, the very award passed itself is invalid and manipulated and thereupon all the sales and purchases and the assignments made either by the Government i.e., Revenue authorities or by the petitioners would amount null and void, as the matter comes under the purview of A.P. Forest Act, 1967. The petitioner could not get any clear title on the

petition schedule land and could not pursue claims appropriately and manipulated all the revenue records. The orders of the Forest Settlement Officer, which are confirmed by the Estates Abolition Tribunal-cum-District Court, Kadapa, are null and void. Section 17 of the Madras Forest Act, 1882, reads as follows:

“Extinction of rights not claimed: - Rights in respect of which no claim has been preferred under Section 6 shall thereupon be extinguished, unless, before the publication of such notification, the person claiming them has satisfied the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under Section 67; in which case the Forest Settlement Officer shall proceed to dispose of the claim in the manner hereinbefore provided.

[17-A. Power of the Government to redefine the limits of reserved forests in certain cases:- (1) Where the description of the limits of any reserve forest notified under Section 16 is defective or is not clear in reference to existing facts, the [Government] may, by notification in the [Official Gazette], declare their intention to redefine the limits of such reserve forest so as to remove the defect or to make the description clear in reference to existing facts. Such notification shall specify as nearly as possible the correction which it is proposed to effect to the limits of the reserved forest.

(2) On the issue of a notification under sub-section (1), the District Forest Officer shall publish in the Official Gazette of the District concerned and in such other manner as may be prescribed by rules made in that behalf a notice –

(a) specifying the corrections proposed by the notification under sub-section (1); and

(b) stating that any objections which may be made in person or in writing to the District Forest Officer, within a period of thirty days from the date of publication of the notice, will be considered by him.

(3) After expiry of the period referred to Clause (b) of sub-section (2) and after considering the objections, if any, received by him, the District Forest Officer shall submit to the [Government] the record of the proceedings held by him together with a report thereon.

(4) The [Government] may, after considering the report of the District Forest Officer, by notification in the [Official Gazette] redefine the limits of the reserved forest, as proposed by the notification under sub-section (1), with such modifications as they think fit or without any modifications.

(5) Save as provided in this Section, it shall not be necessary to follow the procedure laid down in Sections 4 to 16 before issuing a notification under sub-section (4).”

Therefore, the rights of the ancestors of the petitioner and the petitioner are extinct. It is not known whether the alleged inamdars have any document showing entire area of Machupalli Village as inam land. They have not produced any scanned or documentary proof to show that the entire Machupalli Village was inam land. The inamdars did not claim their right over the land under Section 16 of the Madras Forest Act, 1882. All their rights over the land stood extinguished after issuance of notification under Section 16 of the Madras Forest Act, 1882. The Principal Secretary to Government, EFS & T Department, during the enquiry in the year 2000 in connection with the grabbing of land in Survey No.11 of Machupalli Village, observed that the petitioner failed to produce the sale deeds pertaining to Survey No.11 of Machupalli Village and that there were no records as per the Sub-Registrar, Kadapa, between 1946 and 1979. In the joint inspection report of the Revenue Divisional Officer, Kadapa, the Assistant Director, Survey and Land Records, Kadapa, the Divisional Forest Officer (WL), Proddatur, and the Forest Settlement Officer, Kadapa, it was conclusively held that the land belongs to Forest Department only. As per the report, dated 28.11.2013, of the Assistant Director, Survey & Land Records, Kadapa, it is clearly proved that there are only Acs.43.73 cents of patta lands and basing on the records compiled in the survey operations of 1937-1938 and subsequently, in the period 1959-60, the village map has been revised. Out of Survey Nos.1 to 11, Survey Nos.1 to 10 comprise Acs.43.73 cents and Survey No.11 is North Nallamalla Forest with an extent of Acs.2674.50 cents. The survey numbers mentioned in the registered documents bearing nos.1883/ 1954, 1884/ 1954, 767/ 1946 and 2484/ 1955 do not tally with the survey numbers mentioned in the joint

inspection report. The documents are manipulated for the personal interest of the petitioner. Hence, the writ petition may be dismissed.

6. The Tahasildar/6th respondent also filed a counter affidavit denying the allegations in the affidavit of the writ petitioner and *inter alia* stating as follows: - 'The entire land vested with the Government under Section 3 of the Estate (Abolition & Conversion into Ryotwari patta) Act, 1948. Soon after the abolition of the Estate, the individuals, if any, who have purchased the lands from the original shotriyamdars do not derive title to the lands without obtaining patta from the Assistant Settlement Officer either under Section 11 or 15 of the said Act of 1948. The land was not sub divided showing Ac.1085.00 cents and Ac.1385.50 cents in two separate sub divisions in sy.no.11 as stated by the petitioner. Basing on sale documents, the Forest Settlement Officer, Nellore, considered the claim put forward by the father of the petitioner and others to an extent of Ac.1450.00 cents and treated them as real owners; and, by his orders *vide* order no.10/70, dated 20.10.1974, ordered the elimination of the entire block to an extent of Ac.1085.00 cents from the reserve forest. He has not discussed as to how the title over Ac.1450.00 cents of land was acquired by them in his two judgments though the said issue is an important issue. The area in question was notified under Section 4 of the A.P. Forest Act, 1967, and the same was published in Kadapa District Gazette during 1971. The Forest Settlement Officer was appointed to settle the public claims in respect of the reserved block under Section 15 of the Forest Act, 1967. The public claims have to be settled within 6 months and not beyond one year from the date of publication of proclamation in the Gazette. Therefore, the claims ought to have been received up to March, 1972. But, the Forest Settlement Officer received claims from the father of

the petitioner and others during August, 1974, and ordered elimination of the entire block from the reserve forest by his afore-stated orders. When the entire land was taken over under the Act of 1948, and the land vested with the Government and was classified as 'Forest' as per village account, the question of purchase of Ac.1450.00 cents from the original shotriyamdars does not arise. The Joint Collector caused thorough verification of the sale transactions and concluded that there are no sale transactions in respect of the above lands during the years 1946-1979. Except an extent of Ac.43.73 cents the entire land belongs to the Government. The father of the petitioner and others filed WP.No.7957 of 1998 before this Court for survey of land in Sy.no.11 and demarcation of the lands of the petitioners therein to an extent of Ac.1450.00 cents. This Court, by orders, dated 14.09.1998, dismissed the said writ petition for non prosecution. Land of an extent of Ac.2470.50 cents of Machupalli village is a Government poramboke and is classified as 'Forest' as per village accounts. 'Forest land' as per part C, Chapter I of Forest Conservation Act, 1980, is described in Section 2 as 'Reserved forest, protected forest or any area recorded as forest in the Government records'. Lands which are notified under Section 4 of the Forest Act come within the purview of the said Act of 1980. All proposals for diversion of such areas to any non forest purpose, irrespective of its ownership would require prior approval of the Central Government. The notification of Lankamalleswara extent reserve forest under Section 4 of the Madras Forest Act (V of 1882) mentioned that the proposed reserve forest includes certain areas claimed by the shotriyamdars of the following other villages: Chennamukkapalli, Devalatapuram, Machupalli, Venkatapuram and Gopalapuram. As per Chapter I, Part C of the Act of 1980, survey, investigation and

exploration shall not be carried out in wildlife sanctuaries, national parks and sample plots demarcated by the Forest Department without obtaining prior approval of the Central Government whether or not felling of trees is involved. As per the letter, dated 04.05.2001, *vide* No.11-9/ 98-FC, of the Government of India, Ministry of Environment and Forests, the State Governments are advised not to submit any proposal for diversion of forest land in national parks and sanctuaries under the Act of 1980, without seeking prior permission of the Supreme Court. Hence, survey in Sri Lankamalleswara Wildlife Sanctuary requires permission of Government of India. The alleged extent of Acs.2470.50 cents of land in Survey No.11 was taken over by the Government in 1959 under the provisions of the Act of 1948. Out of the said extent of Acs.2470.50 cents, which was classified as "Forest", Acs.1085.00 cents was notified under Section 4 of the Act of 1967 in the year 1970 and published in the Kadapa District Gazette during 1971. The claims made by C. Hanumantha Reddy in the year 1974 i.e., after 2 ½ years cannot be settled as per the Act of 1967. Till date, the land in sy.no.11 of Machupalli Village is classified as forest as per village accounts and the same vested with the Government. The petitioner has not got any authorized ryotwari patta for the lands claimed by him from any settlement authority. Hence, the writ petition may be dismissed.

7. The petitioner also filed a reply affidavit to the counter affidavit of the 4th respondent, *inter alia*, stating as follows: - 'The title stood adjudicated before the Estate Tribunal way back in the year 1980. Property rights accrued to the purchasers of the lands. The title was not disputed before the Forest Settlement Officer and the Estates Abolition Tribunal - District Court. The title to the property in question was upheld. The orders, dated 18.04.1980, of the District Court viz., Estates

Abolition Tribunal, Kadapa, passed in EAT.No.1 of 1978 were assailed in WP.No.8877 of 2014 and the said writ petition was dismissed as the challenge was made to the said orders after lapse of almost 35 years. The said orders of this Court have become final. The questions which have attained finality cannot be re-agitated.

8. Learned senior counsel appearing for the petitioner and the learned Government Pleader appearing for the respondents reiterated the respective pleaded contentions. I have perused the entire material record including the copies of four sale deeds, which are filed by the petitioner along with IA.No.4 of 2018 and which are received on file.

9. From the pleadings, relevant documents and submissions, the following facts are discernable:

Petitioner claims that his ancestors purchased Ac.1,450.00 cents of land in sy.no.11 of Machupalli village from the then Shotriyamdars under the sale deeds, which are mentioned in the writ affidavit and which are referred to supra while adverting to the pleadings of the petitioner. It is his further case that from out of the said land, an extent of Ac.1,000.00 cents is under cultivation and the remaining land is illegally included in a proposed reserve forest block by the forest department of the State; that on such illegal inclusion, the father of the petitioner and others filed a claim petition, dated 26.08.1974, before the Forest Settlement Officer, under Section 10 of the A.P. Forest Act, 1967; that eventually, that is, after remand orders, the Forest Settlement Officer once again passed orders, dated 23.08.1977, to the effect that if the land of Ac.450.00 cents is to be retained in forest block, the same requires to be acquired within 3 months and that failing which the land should be eliminated from the reserve forest block; that

the said order of the Forest Settlement Officer, which was finally passed, was confirmed by the Estates Abolition Tribunal –cum - District Court, Quddapah, *vide* orders, dated 18.04.1980, in the appeal in EAT appeal 1 of 1978 preferred by the Divisional Forest Officer; that thereafter, the representations made to conduct necessary demarcation and exclude the said land of Ac.450.00 cents from the proposed reserve forest block and restore the same to the petitioner were not considered; and that therefore, the present writ petition is filed requesting to give effect to the orders of the Settlement Officer, dated 23.08.1977, which were confirmed on the dismissal of the appeal aforestated. It is also one of the contentions of the petitioner that pursuant to the preliminary notification under Section 4 of the A.P. Forest Act, 1967, made in the year 1971, there has been no final notification of the reserve forest block till date and that as per Section 15 of the said Act, a final notification should be in line with the claims decided by the Forest Settlement Officer and that since no such final notification has been issued so far, the question of treating the subject land as reserve forest and expecting or requiring the permission of the Government of India under the Forest Conservation Act, 1980, is totally unnecessary. Per contra, the official respondents submit as follows: 'That after the abolition of the Estate under the Estates Abolition & Conversion into Ryotwari Act, 1948, ('the Estates Abolition Act', for brevity) the inam land of the Shotriyam village, which was notified was taken over by the Government under the provisions of the Estates Abolition Act, on 05.02.1959; that after survey and settlement, the area of the village was settled and that in that settlement, the land in sy.no.11 of Ac.2,470.50 cents was classified as forest land and that at that time of settlement Ac.43.73 cents is only under cultivation. The remaining land vested with

the Government as is evident from adangal for fasali 1384 and Inam Register, which certified that the S.F. No.9 account has been compared with reference to the check memo prescribed by the Settlement Officer, Nellore, in RC.No.2358/ 52, dated 02.07.1952, by the Superintendent and approved by the Settlement Officer, on 24.03.1964. The land in Machupalli Shotriyam village insofar as the subject land is an inam land. After the Estates Abolition Act, the inam land vested in the Government. It is not the submission of the petitioner in the pleadings that any owner/occupier or other eligible person/s had obtained a settlement patta/ryotwari patta under the provisions of the Estate Abolition Act. The respondents also claim that under the provisions of the Act of 1948, all communal lands and poramboke stood transferred to the Government and vested with the Government free of all encumbrances; that it is not open to the ancestors of the petitioner to purchase lands to an extent of Ac.1450.00 cents under registered documents from the Shotriyamdars in the years 1946-55.'

10. In this backdrop, it is to be first noted that admittedly the ancestors of the petitioner, who were said to have purchased the land in question, did not obtain ryotwari patta, at the time of settlement, from the Assistant Settlement Officer under either Section 11 or 15 of the Estates Abolition Act. As rightly contended by the respondents, the petitioner could not produce any proof in the above regard. Indeed, it is not the case of the petitioner that a ryotwari patta was granted in respect of the subject land either under section 11 or 15 of the Estates Abolition Act. However, since the land in question was included in a proposed reserve block, admittedly, the father of the petitioner and two others approached the Forest Settlement Officer directly for granting of necessary relief, without obtaining any patta from the Assistant

Settlement officer as envisaged under the Estates Abolition Act. No doubt, the Forest Settlement Officer passed an order eventually in favour of the said persons and the said order stood confirmed by the Estates Abolition Tribunal - cum – District Court, on the dismissal of the appeal preferred by the Divisional Forest Officer. Therefore, the petitioner is now claiming that the land in question comprised in the proposed reserve forest block either be acquired as per procedure, under the provisions of the Andhra Pradesh Forest Act, or in the alternative the land in question shall be eliminated from the reservation and denotified as a forest land and be restored to the petitioner, as no final notification has been issued as required under Section 15 of the A.P. Forest Act, 1967, pursuant to preliminary notification under Section 4. As rightly contended by the official respondents, there was no ryotwari patta obtained under the provisions of the Estates Abolition Act by any eligible owner or holder or occupier of the land in question. There is only an order of the Forest Settlement Officer to the effect that the land in question shall either be acquired or be eliminated from the reservation and denotified canceling the notification under Section 4 of the Forest Act and necessary approval be obtained from the Government. The order that was confirmed by the Estates Abolition Tribunal – Cum - District Court is an order of the Forest Settlement Officer and not an order passed under the Estates Abolition Act by a settlement officer or an Assistant Settlement Officer. How the District Judge dealt with the order of the Forest Settlement Officer by exercising the jurisdiction under Estates Abolition Act and as a Presiding Officer of the Estates Abolition Tribunal remains unexplained. The case of the respondents is that after abolition of the Estates and taking over possession of the land, on 05.02.1959, the ancestors of the petitioner

lost possession and since the said date the ancestors of the petitioner were never in possession of the subject land. At any rate, it is not only an admitted fact but it is also borne out by record that since the inclusion of the subject land in the reserve forest block by a notification in the year 1971, neither the ancestors of the petitioner are nor the petitioner is in possession of the subject land. It is to be restated that no ryotwari patta was granted as envisaged under the provisions of the Estates Abolition Act. Hence, this Court is of the considered view that the petitioner is not entitled to the reliefs claimed in the writ petition. Notwithstanding the above finding and even assuming for a moment that the order of the Forest Settlement Officer is valid & binding and that it has to be acted upon, it is to be noted that no appropriate steps were taken within a reasonable time either by the ancestors of the petitioner or the petitioner for implementation of the orders of the Forest Settlement Officer. The order of the Forest Settlement Officer, which the petitioner now seeks implementation by way of this writ petition is an order, dated 23.08.1977. This writ petition is filed *inter alia* pleading that certain representations were made for implementation of the said orders and the same did not yield any result.

11. It is apt to next note that the father of the petitioner and 55 others filed WP.No.7957 of 1998 before this Court requesting for survey of the land in sy.no.11 of Shortrium Machupalli village and demarcate the lands of the 56 petitioners therein to an extent of Ac.1450.00 cents before assigning the remaining extent of land to others including the members of the Sarvodaya Sangham-6th respondent therein. The said writ petition was dismissed, on 14.09.1998, for non prosecution. A copy of the said order is placed on record. The said fact is suppressed by the writ petitioner. Even in the reply affidavit, there is no explanation in

regard to the said suppression of fact. In *Prestige Lights Ltd. v. State Bank of India* [(2007) 8 SCC 449], it was held that in exercising power under Article 226 of the Constitution of India, the High Court is not just a Court of law, but is also a court of equity and a person who invokes the High Court's jurisdiction under Article 226 of the Constitution is duty bound to place all the facts before the Court without any reservation. If there is suppression of material facts or twisted facts have been placed before the High Court then it will be fully justified in refusing to entertain petition filed under Article 226 of the Constitution. In the above decision, the Supreme Court referred to the judgment of Scrutton, L.J., in *R v. Kensington Income Tax Commissioners* [(1917) 1 K.B. 486], and observed: 'In exercising jurisdiction under Article 226 of the Constitution, the High Court will always keep in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise-guilty of misleading the Court, then the Court may dismiss the action without adjudicating the matter on merits. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ Courts would become impossible.' In *Sunil Poddar and Ors. v. Union Bank of India* [(2008) 2 SCC 326], the Supreme Court held that while exercising discretionary and equitable jurisdiction under Article 136 of the Constitution, the facts and circumstances of the case should be seen in their entirety to find out if there is miscarriage of justice. If the appellant has not come forward with clean hands, has not candidly disclosed all the facts that he is

aware of and he intends to delay the proceedings, then the Court will non-suit him on the ground of contumacious conduct. In *K.D. Sharma v. Steel Authority of India Ltd. and Ors.* [(2008) 12 SCC 481], the Supreme Court held that the jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary and it is imperative that the petitioner approaching the Writ Court must come with clean hands and put forward all the facts before the Court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim. The same rule was reiterated in *G. Jayshree and Ors. v. Bhagwandas S. Patel and Ors.*, [(2009) 3 SCC 141]. Therefore, the ground of suppression of material fact with regard to the institution of the earlier writ petition in W.P.no.7957 of 1998 by the father of the petitioner & others for demarcation of the lands to an extent of 1450.00 cents & for other reliefs and the dismissal of the same by this Court, on 14.09.1998, is by itself a ground to deny the relief to the petitioner. Thus, the instant writ petition is liable to be dismissed on the said ground without going into the merits of the claim.

12. Coming to the aspect of inordinate delay and laches, it is to be noted that though the Forest Settlement Officer's order was passed in the year 1977, yet this writ petition is once again filed (with delay) in the year 2007 for implementation of the said orders passed in the year 1977, *inter alia*, stating that the instant writ petition is filed only due to lack of legal awareness and due to the trust and confidence that the authorities would restore the land of an extent of Ac.450.00 cents in

respect of which the petitioner filed land ceiling declaration and which was computed in his holding as per orders in CC.No.1070 of 1975. However, even the copies of the declaration and the orders in the land ceiling proceedings, if any, are also not filed. It is trite to make a passing observation that under the land ceiling law, even if the land is a dry land, a declarant/an individual is not entitled to hold more than Ac.55.00 cents of dry land. The petitioner and his ancestors were not in possession of the subject land since several decades. The father of the petitioner and others having filed the earlier writ petition, for more or less the same relief besides other relief, allowed the said writ petition to be dismissed in the year 1998. Despite the above said facts, no steps were taken within a reasonable time for seeking the relief. Thus, there is inordinate delay in approaching this Court and seeking the present relief. Thus, the factual position noted above clearly shows that the present writ petition is filed after nearly three decades for implementation of the orders of the year 1977. In the case on hand, there is change of position as the possession of the land was taken over on vesting of the land with the Government, on the abolition of estates, and as the land in question along with other land has now become a part of forest land and a wild life sanctuary in view of the proposal and preliminary notification issued under the relevant Forest Law. In the light of the said facts and the further fact that an earlier writ petition for various reliefs including the self same relief of demarcation of the land in Sy.no.11 was dismissed for non prosecution, the bald explanation that was offered for the delay to the effect that 'the petitioner was making representations and the same did not yield result and that due to lack of legal awareness and due to trust and confidence that the authorities would restore to him the extent of land' cannot be

considered as satisfactory explanation for the delay and the same, therefore, needs no countenance. Though it is stated that several requests were made and representations were given, copies of the same are not filed except a copy of the representation said to have been given in the year 2005. Be that as it may. The law is well settled that mere making representations cannot justify a belated approach. [K.V.Rajalakshmiah Setty v. State of Mysore (AIR 1967 SC 993) & Ravindranath Bose case (AIR 1970 SC 470) and State of Orissa v. Pyarimohan Samantaray (AIR 1976 SC 2617)]. In the later decision, the writ petition was dismissed for delay alone. Further, the petitioner herein has no legal awareness cannot be believed for a moment in the facts & circumstances of the case and in view of the fact that he suppressed the fact of dismissal of the earlier writ petition filed by his father & others for more or less the same relief. As per settled law, even where fundamental right is involved, the matter is still within the discretion of the Court as pointed out in Durga Prashad v. Chief Controller of Imports & Exports [(1969) 1 SCC 185]. The said legal position was reiterated in Karnataka Power Corporation Ltd. V. Thangpppan [(2006) 4 SCC 322]. What was stated in this regard by Sir Barnes Peacock in Lindsay Petroleum Company v. Prosper Armstrong Hurd [(1874) 5 PC 221] was approved by the Supreme Court in Moon Mills Ltd. V. M.R.Meher [AIR 1967 SC 1450] and Maharashtra SRTC v. Shri Balwant Regular Motor Service [AIR 1969 SC 329] wherein Sir Barnes had stated:

“Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in either of these cases, lapse of time and delay are

most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy.”

In *State of M.P. v. Nandlal Jaiswal* [AIR 1987 SC 251], it was held:

‘The High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the Petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.

13. The law is well settled that a writ of mandamus is not a writ of course or a writ of right but is, as a rule, discretionary. [*C.R. Reddy Law College Employees' Association, Eluru, W.G. District v. Bar Council of India, New Delhi* (2004 (5) ALD 180 (DB))]. If a party is inexplicably insouciant and his claim is unduly belated due to laches, the Court may ordinarily deny redress. In the present case, long years have elapsed after the order of the Forest Settlement Officer. If relief on ground of laches is refused, the Court cannot be said to have exercised its discretion arbitrarily or improperly. [*Raja Jagdambika Pratap Narain Singh v. Central Board of Direct Taxes* [(1975) 4 SCC 578]. It is important to note that against the orders, dated 18.04.1980, of the Estates Abolition Tribunal – cum - District Court, Kadapa, passed in EAT.No.1 of 1978, the Divisional Forest Officer, preferred WP.No.8877 of 2014 to quash and set aside the said order. However, the said writ

petition was dismissed on the ground of delay and laches after observing that the said writ petition was filed 35 years after the said order was passed. The same analogy & reasoning apply, on all fours, to the case of the present writ petitioner as the present writ petition is one filed for implementation of the orders, dated 23.08.1977, of the Forest Settlement Officer, after two and a half decades.

14. Before parting, it is necessary to note that the learned senior counsel for the petitioner relied upon the following decisions:

1. State of West Bengal v. Hemanth Kumar Bhattacharjee and others [AIR 1966 SC 1061] and Mathura Prasad Bajaj and others v. Dossibai N.B. Jeejeebhoy [1970(1) SCC 613] are relied upon in support of the proposition that rule of *res judicata* is not concerned with the correctness or otherwise of the earlier judgment and that once the matter has been decided earlier by a Court on matter of facts or mixed question of fact and law, such matter cannot be reopened even if such decision is erroneous.

2. State of UP v. Nawab Hussain [(1977) 2 SCC 806] is relied upon in support of the proposition that the doctrine of constructive *res judicata* is applicable in writ petitions.

3. Vimalaeshwar Nagappa Shet v. Noor Ahmed Shariff and others [(2011) 12 SCC 658] and State of Maharashtra v. Ramdas Shrinivas Nayak and another [(1982) 2 SCC 463] are relied upon in support of the proposition that the statement made by the counsel before a court as recorded in the judgment or order of that court cannot be challenged before any other Court.

4. N. Rajagopal Reddy v. District Collector [1999(5) ALD 586] is relied upon in support of the proposition that once the findings

recorded by the Settlement Officer become final, the question of land being agricultural land or not cannot be re-agitated in Writ Petition.

There is no dispute with the above propositions of law in the cited decisions at sl.nos.1 to 4. However, in the case on hand, this Court came to a conclusion that the writ petition is liable to be dismissed on the ground of suppression of fact and inordinate delay & laches. Hence, the decisions relied upon do not advance the case of the petitioner any further.

15. On the above analysis and for the reasons afore-stated, this Court finds that this writ petition is liable for dismissal.

16. In the result, the Writ Petition is dismissed.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

12.11.2018
VA/Vjl

M. SEETHARAMA MURTI, J