

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO
WRIT PETITION NO. 18761 OF 2015 AND CONTEMPT CASE

No.1808 of 2017

COMMON ORDER:

When the Contempt Case No.1808 of 2017 was filed alleging non implementation of the order in WPMP.No.24253 of 2015 dated 25.6.2015, the said Contempt Case was taken along with Writ Petition No.18761 of 2015 and both the cases are being disposed of by this common order.

2. The petitioners claim to be residents of Narayanapuram Village, Chaparalapalli Revenue Panchayat, Mulkalpalli Mandal and belong to Koya (Scheduled Tribe) Community. They have been cultivating the land in Survey No.1-34 of G.P. Way point No.401 in the Forest situated in Mulkalpalli and the total extent of the said land is Ac.83.04 guntas.

3. The Writ Petition was filed challenging the action of the respondents in not regularizing the lands which are in their occupation and they are entitled for the same as per the provisions of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

4. It is the case of the petitioners that a Forest Rights Committee was constituted under the provisions of the above said Act and such a Committee was constituted in respect of Narayanapuram village and a resolution was passed by the Committee on 15.9.2008 showing the names of 32 persons as beneficiaries in respect of the

said land. The forest officials also issued Form-B indicating their possession. Thereafter, no further steps were taken. When there was a threat with regard to their possession of the said lands, they submitted a representation on 22.3.2015 to the District Collector to regularize their possession. Since there was a threat of dispossession, they have filed the present Writ Petition and this Court passed an order on 25.6.2015 not to take any coercive steps for eviction of the petitioners while posting the Writ Petition after two weeks. The said order was followed by another order dated 14.7.2015 while admitting the Writ Petition, directing the respondents not to evict the petitioners without following due process of law.

5. The respondents 1 and 2 have filed separate counter affidavits and respondents 5 and 6 filed a counter along with a petition to vacate the order dated 25.6.2015 stating that a resolution was passed way back on 15.9.2008 showing 32 persons as beneficiaries in respect of land of an extent of Ac.84.03 guntas. There was no recommendation of the Forest Rights Committee and the alleged resolution was signed by the villagers without having any signature of the revenue and forest officials. It was also stated that some of the beneficiaries have revenue land and also obtained RoFR patta certificates under the provisions of the above enactment in Marrigudem Beat of Ramavaram Range but the land claimed by the petitioners is under the control of the Forest Department and the land is proposed for plantation during 2015 -2016.

6. In the counter affidavit filed by the Forest Range Officer, it was stated that the Project Officer, ITDA, Bhadrachalam rejected the applications of the petitioners by proceedings dated 1.12.2015 stating that the petitioners were not in possession of the subject land as on cut-off date i.e., 13.12.2005 as per the provisions of the said enactment. The allegation that the forest officials have come all of a sudden on 24.7.2017 and entered their fields, was denied. It is further stated that the District Forest Protection Committee, in its meeting held on 28.6.2017 headed by the District Collector, Bhadrachalam district, it was concluded that 112 acres of Forest Land is under encroachment in Mulakalapalli village of Annapureddypally Reserve Forest Compartment 43, Chaparalpally East Beat of Chaparalapally Section, and there was a scuffle between two groups in their attempt to encroach the land. The land is under the control of the Forest Department and the petitioners are making attempt to encroach upon the Forest Land without having any right. They have planted different forest species in Compartment No.43 of Chaparalapally Reserve Forest. Since the petitioners were not in possession of the forest land, the question of interfering and destroying their crop, does not arise.

7. Thus, it is clear that even though the petitioners based their claim on a resolution of the Gram Sabha, the said resolution was not signed by the forest officials and revenue officials.

8. Now, it is also stated that the Project Officer, ITDA rejected their claims on the ground that they were not in possession of the land as on the cut-off date mentioned in the Act.

9. In view of the same, the petitioners cannot be held to be entitled for a protection. If they are otherwise entitled for a patta under the provisions of the said enactment, it is for the petitioners to take appropriate proceedings in accordance with law.

10. In view of the same, the Writ Petition as well as the Contempt Case are dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

A. RAMALINGESWARA RAO,J

Date: 23.3.2018

KPM

