

**HIGH COURT FOR THE STATE OF TELANGANA :: AT
HYDERABAD**

**WRIT PETITION NOs.30, 108, 110, 111, 113, 115, 118, 121,
145, 150, 151, 155, 169, 187, 355, 356, 357 and 364 of 2019**

W.P.No.30 of 2019:

Between:

Kunja Nagaiah, S/o Nagaiah,
Aged about 46 years,
R/o Lakshmidvipalli Village and Mandal,
Bhadradri Kothagudem District.

.....Petitioner

and

The State of Telangana, rep.by its Prl. Secretary,
Revenue Department, Secretariat Buildings,
Secretariat, Hyderabad and others.

.....Respondents

DATE OF JUDGMENT PRONOUNCED : 13.12.2019

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

1. Whether Reporters of Local Newspapers : No
may be allowed to see the Judgments ?
2. Whether the copies of judgment may be : **Yes**
marked to Law Reporters/Journals
3. Whether Their Lordship wish to : No
see the fair copy of the Judgment ?

***THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

+ WRIT PETITION NOs.30, 108, 110, 111, 113, 115, 118, 121, 145, 150, 151, 155, 169, 187, 355, 356, 357 and 364 of 2019

%13.12.2019

Kunja Nagaiah, S/o Nagaiah,
Aged about 46 years,
R/o Lakshmidevipalli Village and Mandal,
Bhadradri Kothagudem District.

... Petitioner

and

\$ The State of Telangana, rep.by its Prl. Secretary,
Revenue Department, Secretariat Buildings,
Secretariat, Hyderabad and others.

.... Respondents

!Counsel for the petitioners : Sri V.V.N.Narayana Rao

Counsel for the Respondents : Govt.Pleader for Revenue

<Gist :

>Head Note:

? Cases referred:

2003 (2) ALD 330
2006 (2) ALD 566 (DB)
2017 (3) ALD 587 (DB)
(2012) 4 SCC 362
(2012) 3 SCC 1
(2006) 1 SCC 1
(1997) 1 SCC 134
AIR 1987 SC 2235
AIR 1089 SC 1972
AIR 1966 SC 828
(1980) 4 SCC 379
(1999) 6 SCC 237
1997 (6) ALD 277

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NOs.30, 108, 110, 111, 113, 115, 118, 121, 145, 150, 151, 155, 169, 187, 355, 356, 357 and 364 of 2019

COMMON ORDER:

Heard Sri V.V.N.Narayana Rao, learned counsel for petitioners and the learned Government Pleader for Revenue for respondents. With consent of both parties, Writ Petitions are taken up for hearing at the admission stage.

2. In these Writ Petitions, petitioners are challenging the orders cancelling the assignment of land granted to grand parents/spouses/parents. The basic facts and issue is same in all the Writ Petitions.

3.1. For convenience, facts in W.P.No.118 of 2019 are noticed. The material averments in the affidavit filed in support of the writ petition disclose that petitioner claims to belong to Koya community (a Scheduled Tribe) living in Lakshmidvipalli village, a village located in agency area. His grand father was granted patta to an extent of Ac.2.30 guntas in Sy.No.17 of Lakshmidvipalli village. After death of his father and grand father, he succeeded to the property and is cultivating the land. Earlier, when forest officials were trying to interfere in the possession, some of the patta holders filed W.P.No.30038 of 1998. The said Writ Petition was disposed of by order dated 11.02.2002 directing forest officials not to interfere with possession and enjoyment of the subject land unless pattas granted to them were cancelled. The averments further disclose that the Revenue Divisional Officer conducted enquiry and submitted his report to the District Collector vide his letter dated 16.03.2011. The report points out that the concerned

land was handed over to Revenue Department in the year 1954 for grant of assignments. Accordingly, assignments were granted, Setwar was issued and implemented in village records.

3.2. Notice dated 23.04.2016 was served on petitioner calling upon him to show-cause why patta granted in the name of grand father should not be cancelled. Petitioner claims to have filed his explanation.

4. The stand of all the petitioners is same. They all belong to Koya Community and natives of Laxmidevipalli village. Their family members were assigned land some time in the year 1964. They are in possession of the respective extents of land. They are eking out living by raising Cashew tope. The details of writ petitions are shown in table below:

Sl. No.	W.P.No.	Party Name S/Shri	Assignment made in favour of S/Shri	Extent, Sy.No. and place
1.	30 of 2019	Kunja Nagaiah	Kunja Nagaiah	Ac.2.30 guntans in Sy.No.17 of Lakshmidvipalli village
2.	108 of 2019	Ms. Maddi Yashoda	Maddi Yerriah	Ac.2.30 cents in Sy.No.17/35 of Lakshmidvipalli village
3.	110 of 2019	Ms. J.Durga Bhavani	Kunja Lakshmaiah	Ac.5.05 cents in Sy.No.17 of Lakshmidvipalli village
4.	111 of 2019	Punem Rama Krishna	Punem Rama Krishna	Ac.2.30 cents in Sy.No.17/41 of Lakshmidvipalli village
5.	113 of 2019	Thati Bala Krishna	Thati Veeraiah	Ac.2.30 cents in Sy.No.17/37 of Lakshmidvipalli village
6.	115 of 2019	Chapala Abbas	Chapala Nagaiah	Ac.2.30 cents in Sy.No.17/34 of Lakshmidvipalli village
7.	118 of 2019	Settipalli Siva Kumar	Settipalli Mallaiah	Ac.2.30 cents in Sy.No.17 of Lakshmidvipalli village
8.	121 of 2019	Punem Papaiah	Punem Papaiah	Ac.2.30 cents in Sy.No.17 of Lakshmidvipalli village
9.	145 of 2019	Thati Shankar	Thati Suraiah	Ac.2.30 cents in Sy.No.17/36 of Lakshmidvipalli village
10.	150 of 2019	Kunja Nagaiah	Kunja Nagaiah	Ac.2.30 cents in Sy.No.17 of Lakshmidvipalli village
11.	151 of 2019	Koram Narasaiah	Koram Narasaiah	Ac.2.30 cents in Sy.No.17/38 of Lakshmidvipalli village
12.	155 of 2019	Chinta Naga Raju	Chinta Bakkaiah	Ac.2.30 cents in Sy.No.17/40 of Lakshmidvipalli village
13.	169 of 2019	Chatla Bakkaiah	Chatla Bakkaiah	Ac.1.00 cents in Sy.No.17/55 of Lakshmidvipalli village
14.	187 of 2019	Vanka Gopal Rao	Vanka Narasaiah	Ac.2.30 cents in Sy.No.17/33 of Lakshmidvipalli village
15.	355 of 2019	Ms.Punem Nagamma	Punem Borraiah	Ac.2.00 cents in Sy.No.17 of Lakshmidvipalli village
16.	356 of 2019	Ms. K.Hymavathi	Kunja Ramaiah	Ac.2.30 cents in Sy.No.17/47 of Lakshmidvipalli village
17.	357 of 2019	Ms. Kalam Savitramma	Kalam Muthaiah	Ac.2.00 cents in Sy.No.17 of Lakshmidvipalli village
18.	364 of 2019	Koram Nagesh	Koram Yellaiah	Ac.5.20 cents in Sy.No.17 of Lakshmidvipalli village

5. Some of the petitioners filed W.P.No.25367 of 2018 alleging that forest officials were trying to interfere in their possession. When Writ Petition was taken up for consideration, Court was informed that the assignment pattas were cancelled by order dated 16.08.2016. Recording the same, said Writ Petition was dismissed granting liberty to agitate their rights. Hence, these Writ Petitions.

6. Submissions of learned counsel for petitioners:

(1) According to learned counsel for petitioners, cancellation of assignment pattas was illegal, amounts to arbitrary exercise of power, and was without opportunity of hearing. According to learned counsel, behind their back cancellation order was made and copy was not even served on them for more than two years and only when W.P.No.25367 of 2018 was filed, cancellation of assignments were produced.

(2) He further submitted that the report of the Revenue Divisional Officer dated 16.03.2011 clearly holds that the land on which assignment pattas were granted to petitioners was not forest land. This report was not considered before cancelling the assignment pattas and same is illegal.

(3) He would submit that there is inordinate delay in cancelling the pattas. Pattas granted more than 40 years ago are cancelled on the ground that when patta was granted it was forest land. He would submit that even if granting of patta was erroneous, it cannot be cancelled after more than 40 years. The same amounts to arbitrary exercise of power and is whimsical.

(4) He would submit that Section 33 of the Telangana Land Revenue Act, 1317 Fasli has no application as subject land was not a forest land and same is clear from the report of the Revenue Divisional Officer dated 16.03.2011. The same amounts to arbitrary exercise of power and is whimsical.

(5) He further submitted that all along petitioners are in possession and enjoyment and eking out their living and if they are thrown out at this stage, grave prejudice would be caused to their families.

(6) In support of his contentions, learned counsel placed reliance on following decisions:

- i) **V.Shantha Kumari and others v. District Revenue Officer and Additional District Magistrate, Ranga Reddy district and another**¹;
- ii) **S.Santhanam v. State of Andhra Pradesh and others**²;
- and
- iii) **Lanka Mohan and others v. State of Telangana and others**³.

7. Submissions of learned Assistant Government Pleader:

(1) *Per contra*, learned Assistant Government Pleader raised preliminary objection on maintainability of Writ Petition as competent authority of Forest Department is not made party, whereas land is claimed as forming part of protected forest covering 2194 acres in Survey No.17 and as the subject land is in possession of Forest Department, competent authority of Forest

¹ 2003 (2) ALD 330

² 2006 (2) ALD 566 (DB)

³ 2017 (3) ALD 587 (DB)

Department is necessary and proper party and without hearing such authority no relief can be granted to petitioners.

(2) He would further submit that Section 26 of the Telangana Forest Act, 1967 (for short, 'the Act, 1967') prohibits use of forest land for cultivation. Further as per Section 33 of Land Revenue Act, forest land cannot be assigned without prior approval of Chief Conservator of Forests and when assignment was granted no such approval was obtained. He would therefore submit that as initial assignment was illegal and without competence, cancellation of such patta is not vitiated. As initial assignment was *per se* illegal, delay cannot enure to the benefit of petitioners. Further, no prejudice is caused to petitioners as they were never in possession.

(3) He would further submit that Writ Petitions are filed after three years of cancellation of patta and, therefore, Writ Petitions are liable to be dismissed on this ground alone.

8. In reply, learned counsel for petitioners submitted that as subject land is not forest land, there is no need to implead Forest Department.

9. The relevant facts are not in dispute. Subject land is part of Reserve Forest. Long ago assignments were granted on land forming part of reserve forest. Petitioners claim to be grand children of assignees. These assignments are cancelled on the ground that the subject land is forming part of Reserve Forest and no assignment can be granted on forest land.

10. The following issues arise for consideration:

(i) Whether petitioners are entitled to restoration of assignment and possession on a land forming part of Reserve Forest ?

(ii) Whether inordinate delay and latches would vitiate decision to cancel assignment pattas on Reserve Forest ?

(iii) Whether non-joinder of Forest Department is fatal to the maintainability of Writ Petitions ?

(iv) To what relief ?

11. Natural resources include forests, lakes, rivers and wildlife. Natural resources are national assets and State acts as the custodian of natural resources on behalf of people. Public trust doctrine is applicable in protecting and preserving the natural resources. It is the duty and responsibility of every citizen, the State Government and Union Government to conserve the natural resources.

12. Forest is a dominate terrestrial ecosystem of the earth. Though several legislations are brought out, none of the enactments define word 'Forest'. Word "FOREST" is as enigmatic as the 'forest' we visualize and connect. It appears, in the world over, there are 800 different meanings to the word. However, in normal parlance we understand a 'forest' as a large area dotted by huge trees and thick greenery. In **T.N.Godavarman Thirumulpad v. Union of India** [(1997) 2 SCC 267], Supreme Court defined the word, "*Forest*" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the

purpose of Section 2(i) of the Forest Conservation Act. The term “forest land”, occurring in Section 2, will not only include “forest” as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Forest conservation Act, 1980.” In the modern context, FOREST stands for **F**ood, **O**xygen, **R**ain, **E**nvironment, **S**oil, **T**imber. These six are essential elements for survival of mankind.

13. Humans and forest are interdependent, but humans are more dependent on ‘forest’ for their survival. Extent of forest cover is proportionate to availability of all other resources. Sad part is forest cover is dwindling over the years. It is like cutting the branch on which one stands. It is not too late to increase the forest cover or else perish. That being so, any step taken to divert forest land for any other purpose must be seen with circumspection.

14. The concern about depleting forest resources were realized even in pre-independence era. After independence in the Constitution of India ‘Forest’ was initially shown in the State list, but by later amendment it is brought into concurrent list. A brief look at the history of law on Forest as developed over a period of time as under.

15. Forest is a ‘Concurrent’ subject under the legislative lists of the Constitution of India which means that both the Centre and States are competent to enact laws for forest conservation and use in India. The States therefore have introduced a range of legal instruments that regulate Forestry in the respective states. The

Indian Forest Act, 1927 and the rules made thereunder is the most significant statute that governs the use and management of forest. Typically several rules are enacted at the State level under the above Act.

16. The Indian Forest Act of 1927 (for short, 'Act, 1927') and its progeny in the various states provides the overarching framework for forest management in India. The Preamble to the Act states that the Act seeks to consolidate the law relating to forests, the transit of forest produce and the duty leviable on timber and other forest produce.

17. After notification of intention of State Government under Section 4 of the Act, 1927 to notify an area as Reserve Forest, no rights shall be acquired by any person. After notification under Section 20 of the Act, 1927 is issued, the area notified becomes reserve forest and no person can claim any right nor can acquire the right later on such land. Though Section 27 of the Act, 1927 vests power in the State Government to de-notify reserve forest, after Act, 1980, this power is denuded. Section 2 of the Act, 1980 compels the State Government to seek prior approval of Central Government to de-reserve reserve forest/to use such land for non-forest purpose or assignment to a private person.

18. Chapter XI of the Indian Forest Act, 1927 describes the roles and responsibilities of Forest Officers under the Act. Section 72 vests power in the State Government to invest Forest-officers with certain powers mentioned therein.

19. In State of Telangana (then Hyderabad State) Forest Act, 1310 F. was the first enactment. It was replaced by Forest Act of 1326 F which was again replaced by Forest Act, 1355 F. In the combined State, the Andhra Pradesh Forest Act, 1967 was made. The same is in force after formation of State of Telangana.

20. Chapter-II of Indian Forest Act, 1927 and Chapter-II of Telangana Forest Act, 1967 deal with Reserve Forest. The steps required to be taken to notify an area as reserve forest is more or less same in both enactments.

21. The Government by notification appoints an officer of the State Government, normally the Deputy Commissioner of the concerned district, as Forest Settlement Officer. The Forest Settlement Officer fixes a period not less than three months, to hear the claims and objections of every person having or claiming any right over the land which is to be notified as Reserved Forest and conducts inquiries into the claims of rights, and may reject or accept the same. He is empowered even to acquire land over which right is claimed. For right other than that of right of way, right of pasture, right to forest produce, or right to a water course, the Forest Settlement Officer may exclude such land in whole or in part, or come to an agreement with the owner for surrender of his rights, or proceed to acquire such land in the manner prescribed under the Land Acquisition Act, 1894. Once the Forest Settlement Officer settles all the rights either by admitting them or rejecting them, as per the provisions of the Act, and heard appeals, if any, and settled the same, all the rights on the said piece of land, with or without alteration or modification of boundaries, vest with the

State Government. Thereafter, the State Government issues notification under section 20 of the Indian Forest Act, 1927/ Section 15 of Telangana Forest Act, 1967 declaring that piece of land to be a Reserved Forest.

22. These enactments did not prevent deforestation and reducing the forest cover. Extensive deforestation has been the cause of grave concern. It causes ecological imbalance and leads to environmental degradation. To avert this dangerous consequence, a significant milestone was crossed when the Forest (Conservation) Act, 1980 was made. The object of the 1980 Act is conservation of forests and to prevent depletion thereof.

23. The object of the 1980 Act was interpreted to mean, *“The Act was in recognition of the awareness that deforestation and ecological imbalances as a result of deforestation have become social menaces and further deforestation and ecological imbalances should be prevented. That was primary purpose of the Act.”* [Ambica Quarry Works v. State of Gujarat, (1987) 1 SCC 213].

24. Section 2 of the Forest (Conservation) Act, 1980 reads as under:

“Section 2. Restriction on the de-reservation of forests or use of forest land for non-forest purpose:- Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-

(i) that any reserved forest (within the meaning of the expression “reserved forest” in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) **that any forest land or any portion thereof may be used for any non-forest purposes;**

(iii) **that any forest land or any portion thereof may be assigned by way of lease of otherwise to any private person** or to any authority, corporation, agency or any other Organisation not owned, managed or controlled by Government;

(iv) **that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for afforestation.**

Explanation:- For the purpose of this section “non-forest purpose” means the breaking or clearing of any forest land or portion thereof for-

(a) the cultivation of tea, coffee, species, rubber, palms, oil-bearing plants, horticultural crops of medicinal plants;

(b) **any purpose other than reafforestation,**

but does not include any work relating or ancillary to conservation, Development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and Construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.

25. Section 2 has to be read in consonance with expansive definition/meaning of word ‘Forest’ noted above. It is thus apparent that virtually the Act prohibits conversion of forest land for any purpose. It is an exhaustive provision and would cover cultivation by a private person also even if it is assigned by Government. It is also significant to note that while clause (i) of the Section denotes exclusively to ‘Reserved Forest’, clauses (ii), (iii), (iv) and explanation used the expansive word ‘forest’, thus signifying its complete sweep. The Act, 1980 prescribes penal action against person who contravenes or abets the contravention of any of the provisions of Section 2 and extends penal consequences to the authorities of the Government Departments.

26. After enforcement of the Forest Conservation Act, 1980, the State Governments are denuded of power to de-reserve reserved forest or forest-land and permit use thereof for non-forest purposes. They could do so only after obtaining prior approval of the Central Government.

27. While statutory framework is put in place, it has not given desired result and depletion of forest cover unabated. Alarmed by indiscriminate exploitation of natural resources, affecting ecological imbalance and change in environment, Supreme Court in series of judgments emphasized need to preserve natural resources at any cost. In the following decisions, Supreme Court emphasized the need to conserve the natural resources.

28. In ***T.N. Godavarman Thirumulpad v. Union of India***⁴, Supreme Court held as under:

“30. ***The public trust doctrine developed in M.C. Mehta v. Kamal Nath [(1997) 1 SCC 388] is also meant to ensure that all humans have equitable access to natural resources treating all natural resources as property and not life.*** That principle also has its roots in anthropocentric principle. Precautionary principle and polluter-pays principle affirmed by our Court in *Vellore Citizens' Welfare Forum v. Union of India* [(1996) 5 SCC 647] are also based on anthropocentric principle since they also depend on harm to humans as a prerequisite for invoking those principles. The principle of sustainable development and intergenerational equity too presupposes the higher needs of humans and lays down that exploitation of natural resources must be equitably distributed between the present and future generations. Environmental ethics behind those principles were human need and exploitation, but such principles have no role to play when we are called upon to decide the fate of an endangered species or the need to protect the same irrespective of its instrumental value.

⁴ (2012) 4 SCC 362

31. Anthropocentrism considers humans to be the most important factor and value in the universe and states that humans have greater intrinsic value than other species. Resultantly, any species that are of potential use to humans can be a reserve to be exploited which leads to the point of extinction of biological reserves. Further, that principle highlights human obligations towards environment arising out of instrumental, educational, scientific, cultural, recreational and aesthetic values that forests have to offer to humans. Under this approach, environment is only protected as a consequence of and to the extent needed to protect human well-being.”

29. In ***Centre for Public Interest Litigation v. Union of India***⁵, Supreme Court held as under:

“74. At the outset, we consider it proper to observe that even though there is no universally accepted definition of natural resources, they are generally understood as elements having intrinsic utility to mankind. They may be renewable or non-renewable. They are thought of as the individual elements of the natural environment that provide economic and social services to human society and are considered valuable in their relatively unmodified, natural form. A natural resource's value rests in the amount of the material available and the demand for it. The latter is determined by its usefulness to production. ***Natural resources belong to the people but the State legally owns them on behalf of its people and from that point of view natural resources are considered as national assets, more so because the State benefits immensely from their value.***

75. ***The State is empowered to distribute natural resources. However, as they constitute public property/national asset, while distributing natural resources the State is bound to act in consonance with the principles of equality and public trust and ensure that no action is taken which may be detrimental to public interest.*** Like any other State action, constitutionalism must be reflected at every stage of the distribution of natural resources. In Article 39(b) of the Constitution it has been provided that the ownership and control of the material resources of the community should be so distributed so as to best subserve the common good, but no comprehensive legislation has been enacted to generally define

⁵ (2012) 3 SCC 1

natural resources and a framework for their protection. Of course, environment laws enacted by Parliament and State Legislatures deal with specific natural resources i.e. forest, air, water, coastal zones, etc.”

30. In **T.N. Godavarman Thirumulpad (87) v. Union of India**⁶, Supreme Court held as under:

“1. **Natural resources are the assets of the entire nation. It is the obligation of all concerned, including the Union Government and State Governments to conserve and not waste these resources. Article 48-A of the Constitution requires that the State shall endeavour to protect and improve the environment and to safeguard the forest and wildlife of the country. Under Article 51-A, it is the duty of every citizen to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.**

3. **Forests are a vital component to sustain the life support system on the earth.** Forests in India have been dwindling over the years for a number of reasons, one of it being the need to use forest area for development activities including economic development. Undoubtedly, in any nation development is also necessary but it has to be consistent with protection of environments and not at the cost of degradation of environments. Any programme, policy or vision for overall development has to evolve a systemic approach so as to balance economic development and environmental protection. Both have to go hand in hand. In the ultimate analysis, economic development at the cost of degradation of environments and depletion of forest cover would not be long-lasting. Such development would be counterproductive. **Therefore, there is an absolute need to take all precautionary measures when forest lands are sought to be directed for non-forest use.**

73. It has been recognized that one of the essentials for forest management is the conservation of total biological diversity, the network of national parks, sanctuaries, biosphere reserves and other protected areas to be strengthened and extended adequately.

⁶ (2006) 1 SCC 1

74. The strategy under the Forest Policy is to have a minimum of one-third of the total land area of the country under forest or tree cover. In the hills and in mountainous regions, the aim should be to maintain two-thirds of the area under such cover in order to prevent erosion and land degradation and to ensure the stability of the fragile ecosystem. Clause 4.3 lays down the aspects of management of State forests. It would be instructive to reproduce hereunder certain parts of the policy with a view to have clarity in the aim to be achieved:

4.4.1. Forest land or land with tree cover should not be treated merely as a resource readily available to be utilised for various projects and programmes, but as a national asset which requires to be properly safeguarded for providing sustained benefits to the entire community. Diversion of forest land for any non-forest purpose should be subject to the most careful examinations by specialists from the standpoint of social and environmental costs and benefits. Construction of dams and reservoirs, mining and industrial development and expansion of agriculture should be consistent with the need for conservation of trees and forests. Projects which involve such diversion should at least provide in their investment budget, funds for regeneration/compensatory afforestation.

4.8.1. Encroachment on forest lands has been on the increase. This trend has to be arrested and effective action taken to prevent its continuance. There should be no regularisation of existing encroachments.

4.16. The objective of this revised policy cannot be achieved without the investment of financial and other resources on a substantial scale. Such investment is indeed fully justified considering the contribution of forests in maintaining essential ecological processes and life support systems and in preserving genetic diversity. **Forest should not be looked upon as a source of revenue. Forests are a renewable natural resource. They are a national asset to be protected and enhanced for the well-being of the people and the nation."**

75. It is clearly a constitutional imperative to preserve and enhance forest cover as a natural gene pool reserve.

77. The shift in the approach of the legislation is evident from the FC Act of 1980 when compared with the scheme underlying the Forest Act, 1927 which was State-oriented for conserving the Forest Policy of 1952. Further, in 1977, forest and wildlife were taken out from the State List and incorporated in the Concurrent List. Considering the compulsions of the States and large depletion of forest, these legislative measures have shifted the responsibility from States to the Centre. Moreover, any threat to the ecology can lead to violation of the right of enjoyment of healthy life guaranteed under Article 21, which is required to be protected. The Constitution enjoins upon this Court a duty to protect the environment.”

31. Having regard to broad contours of ‘FOREST’ as a word/its abbreviated form and its relevance to ensure ecological balance, the precedent pronouncements of the Supreme Court, the Court is bound to interpret the provisions of Acts dealing with Forest and Conservation Acts in a way which would further the object of the legislation. [**Nature Lovers Movement v. State of Kerala**, (2009) 5 SCC 373].

32. Heavy reliance is placed on Section 33 of the Land Revenue Act, 1317 Fasli to justify that forest land was de-reserved and handed over to Reserve Forest and accordingly, assignments were granted. Section 33 of the Act reads as under:

“Section 33 of Land Revenue Act, 1317 F:

Fresh Patta within reserved forest to be given in consultation with Conservation of forests:-
-Unless land is set apart demarcated for cultivation within the limits of reserved forest no fresh patta shall be given without consulting the Chief Conservator of Forest.”

33. Section 33 of the Land Revenue Act mandates the competent authority to ascertain whether particular piece of land in reserve forest is set apart and demarcated for cultivation and only in such

a case he can grant patta, otherwise no fresh patta can be granted without consulting the Chief Conservator of Forest.

34. As per this provision, after an area is notified as reserve forest, unless the particular piece of land is set apart and demarcated for cultivation or with the prior consent of the Chief Conservator of Forest land is diverted for non-forest purposes, no assignment can be granted. However, after notification of Act, 1980, this provision is rendered otiose.

35. The order impugned elaborately considers the issue of status of the land. According to the orders of the District Collector, Sy.No.17 of Lakshmidvipalli comprises of 2194 acres of land and it was included in Chatakonda reserve forest area vide Gazette No.1, dated 03.01.1355 Fasli under Section 18 of the Hyderabad Forest Act. Acs.154.35 guntas of land forming part of Chatakonda reserve forest area was assigned at different points of time to various individuals, mutations were also done and pattadar passbooks were also issued without de-reserving the forest land. Having realized that the assignment pattas were granted in contravention of the above Acts and Forest Conservation Act, 1980, decision was taken to cancel the assignments granted.

36. It is thus apparent from the reading of the order, the subject land forms part of Chatakonda reserve forest area. The Indian Forest Act, 1927, the Telangana Forest Act, 1967 and the Forest Conservation Act, 1980 strictly prohibit any kind of alienation or diversion of forest land and requires the entire extent of notified forest area be preserved only for the purpose of forest conservation and not for any other purpose. A limited protection is granted to

the tribals living in forest area eking out their living by cultivating the forest land under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

37. Learned counsel for petitioners placed heavy reliance on the report submitted by the Revenue Divisional Officer, Kothagudem dated 16.03.2011 to the District Collector, Khammam. According to the learned counsel, the report would clearly disclose that, by way of letter dated 03.12.1954 of the Divisional Forest Officer, Khammam, the lands under cultivation on either side of the roads/railway line in Sy.No.17 of Laxmidevipalli village have been handed over to the Revenue Department by the Forest Department as per the Standing Orders and Circular No.14, dated 08.11.1954 for assignment of land to the landless poor Scheduled Tribes and others and accordingly, 54 assignees were assigned the land to an extent of Acs.154.35 guntas in the year 1955. The report further discloses that according to the Revenue Divisional Officer, the subject land is not reserved forest as it was handed over to the Revenue Department. The encroachments are allowed to be continued for such a long time and as per the guidelines of the Chief Conservator of Forests, the encroachments into the forest lands prior to 1964 are not prejudicial to security or conservation of forests and also such encroachments should be allowed to be continued and pending de-reservation, no action should be taken against the occupants. In other words, according to the Revenue Divisional Officer, assignments granted long ago should not be cancelled.

38. However, his report also discloses that there is no de-reservation of forest land made by the competent authority. It appears to be an understanding at the lower level to clear the bushes adjoining the road and railway line and proposal to assign land to landless poor persons. It also discloses that continuously the forest officials have been protesting against the illegal encroachment into the forest land and have been requesting to cancel the assignments granted and to revert possession. Even according to the Revenue Divisional Officer report, he advised to de-reserve the forest land having regard to the previous correspondence. This would clearly imply that forest land was never de-reserved.

39. It is interesting to notice the letter of the District Collector addressed to the Conservator of Forests dated 27.02.2011. He asserts that as per the report, map prepared by the Survey of India and also the map prepared by the forest officials, the subject lands are shown as located outside the reserve forest of Chatakonda block situated on the right side of the P.W.D. road leading from Kothagudem to Yellandu. Thus, new aspect was introduced, which was contrary to other correspondence and the Revenue Divisional Officer report. He also acknowledges that forest officials were agitating that the lands assigned are part of Chatakonda reserve forest block. Therefore, two conflicting statements were made by the District Collector. He also records that unlawful and illegal assignments were made by the then Tahsildar of Kothagudem, who was not competent to assign, assignments were cancelled long back and those illegally assigned lands were handed over to the Forest Department, but he justified the assignments of the others

in land in issue. He sought to contend that the assignees and their legal heirs and the lawful purchasers raised Mango gardens, Cashew nut gardens and conducting agricultural operations and several RCC constructions have also come up. This statement is also contrary to other report of the District Collector. Obviously, this letter is based on the report of his Subordinates, who were more than willing to validate the illegal assignments in reserve forest.

40. The impugned proceedings of the District Collector cancelling the assignments clearly point out the factual position on ground. According to the District Collector, though assignment pattas were granted to the Tribals, but non-tribals occupied those lands and carrying on non-agricultural activities in land as the value of the land became high. It also refers to the request of the Revenue Divisional Officer, Kothagudem to the District Collector to cancel the assigned pattas given since 1956 without de-reservation of the forest land. The report of the Tahsildar dated 12.07.2016 relied upon by the District Collector also would show that, on verification of the physical status, neither the assignees nor their legal heirs are in physical possession and the land is under the control of the Forest Department. In other words, revenue authorities now admit the fact that the land forming part of the reserved forest was never de-reserved. By referring to the claim of the petitioner in W.P.No.118 of 2019, the District Collector observed that petitioner did not file any documentary evidence in support of his claim about the possession and observed that possession is not established and that the physical possession is

still with the Forest Department. Same view is expressed by the District Collector with reference to all other petitioners.

41. It is appropriate to extract the relevant paragraphs of the District Collector's order as under:

"The notice was served to the legal heirs of the assignee by the field staff of Tahsildar Office, Kothagudem and the case was heard on 28.04.2016. In response to the notice, grandson of the assignee i.e., Sri Settipalli Siva Kumar has attended the enquiry on 28.04.2016 and submitted his explanation stating that, his grandfather Sri Settipalli Mallaiah was granted patta in the year 1956 by the Social Welfare Department. Since then they are cultivating the lands by their family members and did not alienate to anybody. Further, they stated that, they are poor tribal except this land there is no means of livelihood and requested to drop the further action for cancellation of assignment.

Xxx

The grandson of the assignee., Sri Settipalli Siva Kumar has submitted that he is in possession of the assigned land of his grandfather Sri Settipalli Mallaiah (Assignee), but he has not filed any documentary evidence in support of his claim about possession. Hence, his plea that possession on the assigned land is not established, as such the report of the Tahsildar, Kothagudem is considered that the physical possession of the land is still with Forest Department.

Xxx

In the instant case, the lands situated in Sy.No.17 of Laxmidevipalli village were notified as Reserve Forest vide Gazette No.1 dated 3.1.1355 F. vide proceedings of Civil Administrative, Warangal dated 11.03.1950 Revenue Dept., Circular No.5105 dated 14.11.1951, the then Social Welfare Officer granted assignment pattas in the year 1956 without obtaining any permission from the District Collector as well as Chief Conservator of Forest as per Section 33 of Land Revenue Act and BSO 15 (35 (VII)) mentioned above.

Further the assignee or their legal heirs have failed to obtain such permissions, on other hand the Revenue Divisional Officer, Kothagudem has submitted that the assignment made in Sy.No.17 is without permission of the then District Collector, as well as Chief Conservator of Forest U/s.33 of Land Revenue Act 1317 F. In the light of above though the land was allotted to individual without any de-reservation in Sy.No.17 of Laxmidevipalli village of Chatakonda forest block, they none the less falls under category of forest and continues to be forest land till de-reservation made. Hence, the assignment made in Sy.No.17 is illegal and is liable for cancellation.”

42. This order of the District Collector supported by the report of the Field Level Officers would clearly bring out that the land in issue continues to be part of the reserve forest, never de-reserved, assignments in the forest land were made by incompetent authority and in violation of the provisions of the Forest Act, 1967 and the Land Revenue Act, 1317 F, and assignees are not in possession.

43. The petitioners do not dispute the factum of subject land as forming part forest area, but they only contend that the Government on its own motion assigned the lands to the grand fathers/parents/spouses of petitioners and ever since they have been in possession and enjoyment and after long lapse of time such assignment could not have been cancelled. In other words, on the ground of delay and laches the proceedings to cancel the assignments granted in 1950's and 1960's is not valid in law and is vitiated. In three decisions relied upon by the learned counsel for petitioners, this issue was considered and in all three decisions the orders cancelling the assignments granted are declared as

illegal primarily on the ground that action to cancel the decision was after long lapse of time ranging from 10 to 40 years.

44. From the judgments relied by learned counsel for petitioners, it appears that issue in those cases was not with reference to the competence to assign land, but was more with reference to violation of terms of assignment or cancellation of occupancy rights after long time. In the instant case, the land on which assignment was granted is notified as forest area.

45. Three things required to be noticed to appreciate the contention of the learned counsel for petitioners on delay in taking coercive action. Firstly, whether petitioners are in possession, land is developed for cultivation and have been cultivating; secondly, over a period of time the property may have changed its character; and thirdly, the original assignment was validly granted.

46. Whether petitioners are in possession and cultivation is a relevant fact which can be verified from forest officials who are the custodians of forest land.

47. In these cases, it is not necessary to dwell deep into this aspect having regard to assertion of the learned Government Pleader that land is barren land, that petitioners are not in possession of the said land and that land is in possession of Forest Department. Having regard to this submission, learned Government Pleader also contended that Forest Department is necessary party and in the absence of Forest Department being represented, the relief prayed by the petitioners cannot be granted.

48. Having regard to the provision contained in Telangana Forest Act, 1967, the Telangana Land Revenue Act, 1317 Fasli, and Conservation of Forest Act, 1980, once area is notified as forest area, the designated officials of the Forest Department are the custodians of the forest land, and they shall be maintaining entire record of forest land. The competent authority of Forest Department would have assisted the Court in rendering decision objectively. When the status of the land is not disputed, the Forest Department represented by the competent authority of the State is necessary and proper party on an issue concerning reserve forest and in their absence, there cannot be proper adjudication. Their presence is all the more required having regard to the history of litigation and consistent stand of Forest Department on status of subject land. In W.P.No.22498 of 2010 the Forest Department contested the claim of so called assignees and asserted that the land is in possession of Forest Department.

49. To grant equitable relief, on the ground that assignment was granted 40 years ago, within a very narrow window, even when Court holds that it is a forest land, subject to overarching public interest and maintaining ecological balance, possession and enjoyment of land in issue is crucial. The Revenue authorities denying claim of possession by petitioners. In the earlier round of litigation, Forest Department asserted that the entire land is in their administrative control. No material to support of possessory claim is produced by petitioners. Thus, it is all the more necessary to ascertain from Forest Department officials. For the reasons best known, petitioners are reluctant to implead Forest Department represented by competent authority as respondents. In the

absence of Forest Department officials, by their adamance to implead Forest Department petitioners are disentitled to seek equitable relief.

50. J.Sammakka claiming to be an assignee filed W.P.No.22498 of 2010 alleging that the respondents-forest authorities are interfering with the petitioner's possession in respect of the land to an extent of Ac.1.34 guntas in Sy.No.17/26 and Ac.1.10 guntas in Sy.No.17/31 of Laxmidevipalli village. According to the petitioner therein, Acs.5.20 guntas of land in Sy.No.17/26 was allotted to the father of the petitioner in the year 1956 by the Special Social Service Officer. A part of the land was subsequently taken for Railway line to Kothagudem Thermal Power Station, Paloncha from Kothagudem. Hence, patta was issued only to the extents mentioned above. Petitioner asserted that the land was not forest land. There was clear demarcation on the ground showing the land as covered by the pattas and implemented in the revenue records.

51. The said claim was opposed by the Forest Department. They have asserted that the land claimed by the petitioner was not in possession of the petitioner and entire extent of land is part of the reserved forest. Survey No.17 comprises of Acs.2194.20 guntas, out of which Acs.2180.20 guntas included in the reserved forest, leaving only Acs.14.00 guntas outside the forest block. The Forest Settlement Officer excluded Ac.25.00 guntas of land from the forest block for the purpose of Gairan and the entire remaining land was declared as reserved forest in the year 1355 Fasli. Notification was issued after following due procedure as required

by the Forest Act. They also asserted that illegally assignments were granted, original tribal assignees were dispossessed by the non-tribals by way of purchase or otherwise and the Government lands were encroached by the non-tribals. As per the orders of the District Collector enquiry was conducted under Section 166-B of the Telangana Land Revenue Act and passed orders for cancellation of assignments sanctioned to the ineligible persons and persons were evicted from the lands by the Tahsildar and possession of the land was handed over to the Forest Department by conducting proper panchanama in the year 1964 as per the District Collector letter dated 24.03.1964. It is further stated that land in issue was covered by the miscellaneous species growth and plantation raised by the Forest Department. From out of this land, 0.25 hectares was handed over to the Singareni Collieries Company Limited for construction of Helipad as per G.O.Ms.No.664, F&R (Forest.I) Department, dated 18.10.1979 and the remaining extent is under the administrative control of the Forest Department. They denied the contention that petitioners were cultivating the land.

52. Having regard to the respective submissions, the Hon'ble Court by order dated 11.12.2013 disposed of the Writ Petition No.22498 of 2010, directing the District Collector, Khammam to review the assignments made to the 54 persons by the then Special Social Service Officer, Yellandu in the year 1956 and consider their cases either for regulation or cancellation by due process of law.

53. Pursuant to the directions issued by learned single Judge of this Court in the above writ petition, the administrative machinery

initiated process to review all assignments granted and take appropriate decision of cancellation of assignments culminating in the order impugned. For all the afore stated reasons, the claim of delay in initiating steps to cancel the assignment is not valid. The material on record would also disclose that though the original intendment was to assign lands to the local tribals, in fact local tribals were dispossessed long ago and land changed hands from tribals to non-tribals. Thus, claims of non-tribals in agency area, even assuming that long ago assignments were granted, cannot be allowed and more so, when it is asserted by the Forest Department and the District Collector that these persons are never in possession and Forest Department continues to be in possession.

54. Prior to Act, 1980 also, there was a clear embargo on granting assignment to any person in Forest land unless conditions imposed in Section 34 of the Land Revenue Act, 1317 Fasli are complied. Apparently, those two conditions are not complied before granting assignment. Even this provision is subject to overarching special laws on protection and preservation of forest. It is an exception to preservation of forest land and has to be construed strictly. In view of Section 2 of the Act, 1980 even the power under Section 34 of Land Revenue Act, 1317 F is denuded.

55. Even if the said provision is complied, it may not validate the assignment and Court is entitled to go into the impact it may have vis-à-vis affecting natural resources as elucidated by the Supreme Court in the decisions noted above. In preserving/protecting natural resources public trust doctrine would apply and no action

contrary to such protection/preservation is immune from consideration by the writ Court in exercise of power of judicial review under Article 226 of the Constitution of India.

56. Writ remedy is discretionary remedy and equitable remedy. Granting of relief depends on the facts of a given case. Where injustice is palpable writ Court would come to the rescue of affected person and would grant relief. It is not bound by procedural limitations/delay. However, over a period of time Court opted to self-imposed restraint on its jurisdiction. Further, even when petitioners make out a point against sustainability of an order, writ Court need not grant relief if granting of relief would result in restoring another illegal decision.

57. Writ Court may refuse to grant relief in a case where justice and larger public interest require denial of such relief as compared to grievance of an individual, even assuming there is breach of natural justice/statutory prescription writ Court do not issue futile writs. It must be exercised with great caution and only in furtherance of public interest or to set right grave illegality. Larger public interest must be kept in mind to decide whether intervention of the court is called for in a given case, more so when community properties are involved.

58. While considering the grievance in a petition under Article 226, the writ court need not grant relief merely because the petitioner makes out a legal point. *'It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point'* **[RAMNIKLAL N BHUTTA Vs. STATE OF**

MAHARASTRA⁷. ‘Even if a legal flaw can be electronically detected, this Court would not interfere save manifest injustice or unless a substantial question of public importance is involved [**RASHPAL MALHOTRA Vs SATYA RAJPUT MRS AND ANOTHER**⁸ and **COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH AND ANOTHER Vs. K G S BHATT**⁹].’

59. In the following three leading decisions this very issue was considered by the Hon’ble Supreme Court.

59.1. In **GADDE VENKATESWARA RAO V. GOVERNMENT OF A.P.**¹⁰, the Panchayat Samithi passed resolution on 25.08.1960 to locate a primary health centre at Dharmajigudem. It passed another resolution on 29.05.1961 to locate it at Lingapalem. On a representation, Government passed orders on 07.03.1962 setting aside the second resolution of Panchayat Samithi and thereby restoring the earlier resolution dated 25.08.1960. On a review, Government passed orders on 07.03.1962 accepting shifting of primary health centre to Lingapalem. The earlier order was without notice to the Panchayat Samithi and later order was passed without notice to villagers of Dharmajigudem, on whose representation Government passed orders on 07.03.1962.

59.2. To the extent relevant for the case on hand, Supreme Court observed at page 189 as under:

“Both the orders of the Government, namely, the order dated 7-3-1962, and that dated 18-4-1963, were not legally passed: the former, because it was made *without giving notice* to the Panchayat Samithi, and the latter, because the Government had no power under Section 72 of the Act to review an order made

⁷ (1997) 1 SCC 134

⁸ AIR 1987 SC 2235

⁹ AIR 1089 SC 1972

¹⁰ AIR 1966 SC 828

under Section 62 of the Act and also because it did *not give notice* to the representatives of Dharmajigudem village.”

59.3. Supreme Court further observed that if the High Court quashed the order of Government dated 18.04.1963, it would have restored another illegal order and it would have given health centre to a village contrary to the valid resolution passed by the Panchayat Samithi and upheld the decision of High Court in not exercising its extraordinary discretionary jurisdiction.

59.4. In **S.L.KAPOOR V. JAGMOHAN**¹¹, principal contention was that the order of supersession of New Delhi Municipal Corporation of Delhi made by Lt. Governor was in complete violation of principle of natural justice and total disregard of fair play. No notice to show cause was issued and no opportunity was afforded on the allegations made for such supersession. Supersession resulted in premature termination of tenure of members of the Municipal Committee. Supreme Court held opportunity needs to be given before superseding Committee and that the Municipal Corporation was not put on notice before exercising power to supersede the committee and held such action as illegal.

59.5. The observations of Hon’ble Supreme Court in paragraph-24 are apt to note at this stage. Supreme Court held,

“24. As we said earlier where on the admitted or indisputable facts only one conclusion is possible and under the law only one penalty is permissible, the court may not issue its writ to compel the observance of natural justice, not because it is not necessary to observe natural justice but because courts do not issue futile writs. We do not agree with the contrary view taken by the Delhi High Court in the judgment under appeal.”

¹¹ (1980) 4 SCC 379

59.6. The view expressed by the Supreme Court in **S.L.Kapoor** (supra) is referred to and relied upon in subsequent decisions.

59.7. In **M.C.MEHTA VS. UNION OF INDIA AND OTHERS**¹², Bharat Petroleum Corporation Limited (BPCL) assailed cancellation of retail petroleum outlet on the ground that prior to such cancellation, no notice or opportunity was afforded to BPCL. Earlier the very same piece of land was allotted to Hindustan Petroleum Corporation Limited (HPCL). This allotment was cancelled, and allotment was in turn made to BPCL. By order dated 10.03.1999, the plot was restored to HPCL withdrawing from BPCL. Both have contended that principles of natural justice violated when allotment was cancelled.

59.8. In the above factual background, Supreme Court observed as under:

"15. It is true that whenever there is a clear violation of the principles of natural justice, the courts can be approached for a declaration that the order is void or for setting aside the same. Here the parties have approached this Court because the orders of the Department were consequential to the orders of this Court. ***The question however is whether the Court in exercise of its discretion under Article 32 or Article 226 can refuse to exercise discretion on facts or on the ground that no de facto prejudice is established.*** On the facts of this case, can this Court not take into consideration the fact that any such declaration regarding the 10-3-1999 order will restore an earlier order dated 30-7-1997 in favour of Bharat Petroleum Corporation which has also been passed without notice to HPCL and that if the order dated 10-3-1999 is set aside as being in breach of natural justice, Bharat Petroleum will be getting two plots rather than one for which it has no right after the passing of the latter order of this Court dated 7-4-1998? "

(emphasis supplied)

59.9. In **M.C.Mehta**, by referring to **Gadde Venkateswara Rao**, Supreme Court observed,

"17. The above case is a clear authority for the proposition that it is not always necessary for the Court to strike down an order merely because the order has been passed against the petitioner in breach of natural justice. ***The Court can under Article 32 or Article 226 refuse to exercise its discretion of***

¹² (1999) 6 SCC 237

striking down the order if such striking down will result in restoration of another order passed earlier in favour of the petitioner and against the opposite party, in violation of the principles of natural justice or is otherwise not in accordance with law.”

XXXX

21. It is, therefore, clear that if on the ***admitted or indisputable*** factual position, only one conclusion is possible and permissible, the Court need not issue a writ merely because there is violation of the principles of natural justice.”

(emphasis supplied)

59.10. This principle is applied in all subsequent decisions by the Hon’ble Supreme Court.

60. In **KALASAGARAM, SECUNDERABAD CULTURAL ASSOCIATION Vs STATE OF ANDHRA PRADESH**¹³, learned single Judge of this Court, as he then was, later elevated to Hon’ble Supreme Court, considered the very issue and held as under:

“10. There is no controversy whatsoever about the nature of the land granted to the petitioner by the respondent-Corporation on lease. The land itself admittedly, does not belong to the Corporation. The land belongs to Government Employees Co-operative Housing Society and forms part of sanctioned layout. In the layout the land in question is admittedly reserved for the purpose of play ground, park *etc.* May be, under the provisions of the layout Rules and the Hyderabad Municipal Corporation Act, after the reservation of land for parks and play grounds, the lands stood vested in the Municipal Corporation.

XXXXX

14. Even if it is to be assumed that the impugned order suffers from some infirmities, should the Court grant relief to the petitioner and issue writ as prayed for? Whether the petitioner is entitled for any relief from this Court? It is settled law that this Court does not issue writs in exercise of its jurisdiction under Article 226 of the Constitution of India, as a matter of course. The Court exercising jurisdiction under Article 226 of the Constitution of India is also a Court of equity. The relief to be granted in exercise of such power is an equitable one. Mere infraction of a statutory provision would not automatically give rise to a cause for issuing a writ of Mandamus. ***The Court of equity, when exercising its equitable jurisdiction under Article 226 of the Constitution must so act as to prevent perpetration of a legal fraud and the Courts are obliged to do justice by promotion of good faith, as far as it lies within their power. Equity is always known to defend the law from crafty evasions and new subtleties invented to evade law’ (See A.P. State Financial Corporation v. Gar Re-Rolling Mills, (1994) 2 SCC 647 at 662. Writ of Mandamus is highly discretionary***

¹³ 1997 (6) ALD 277

remedy as the aggrieved person has to not only establish the infraction of a statutory provision of law but required to further establish that such infraction has resulted in invasion of a judicially enforceable right. The existence of a right is the foundation of the jurisdiction of Court to issue a writ of Mandamus.

xxxxxx

16. Be that as it may, the Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot compel the Government or statutory authorities to act in an illegal manner”.
(emphasis supplied)

61. Guided by the plethora of precedent decisions, it is seen that in the cases on hand land in issue is reserved forest land. The reserve forest land vests in Forest Department and designated authority of Forest Department is custodian. The reserve forest land cannot be used/diverted for any purpose other than development of forest growth. Revenue authorities have no competence to deal with forest land and assign such land. Section 33 of Land Revenue Act, 1317 Fasli does not give free licence to revenue authorities and is subject to Act, 1927, Act, 1967 and Act, 1980 and subject to overarching public interest and public trust doctrine. From long time possession vested in the Forest Department. Thus, merely on the ground that after long lapse of time power is exercised to cancel the assignment cannot enure to the benefit of petitioners as granting relief to petitioners would result in restoring another illegal decision. More so, when possession is not proved on contest with Forest Department. Permitting petitioners to cultivate land in reserved forest is against public interest.

62. All the issues are answered against petitioners. Thus, prayers sought in the Writ Petitions cannot be granted. However, if petitioners are otherwise entitled to assignment of land, they may

apply to the competent authority. Notwithstanding dismissal of these writ petitions, their request, if any made, be considered objectively.

63. Writ Petitions are accordingly dismissed. Pending miscellaneous petitions if any shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 13.12.2019
kkm



HON'BLE SRI JUSTICE P.NAVEEN RAO



WRIT PETITION NOs.30, 108, 110, 111, 113, 115, 118, 121, 145, 150, 151, 155, 169, 187, 355, 356, 357 and 364 of 2019

Date: 13.12.2019

kkm