

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.14775 OF 2019

ORDER:

Petitioners claim that they are in possession and enjoyment of the land to an extent of Acs.2-20 guntas each, totally admeasuring Acs.10.00 guntas, in compartment No.170 of Manchippa Reserve Forest, Dharmaram Beat of Mudakpally Section, Maulalipur Shivar, Malkapur Mandal of Nizamabad District. Petitioners claim that they are the Scheduled Tribes residing in forest for several generations. Petitioners now allege that they are tried to be dispossessed even though right is vested in them as residents of the reserved forest.

2. In support of their claim that people who are residing in the reserved forest and cultivating the lands in the reserved forest area cannot be displaced, learned counsel for the petitioners relied upon the orders passed by the Hon'ble Supreme Court on 28.02.2019 in WP (Civil) no.109 of 2008 keeping on hold the earlier orders dated 13.02.2019 and contends that the persons who are in occupation of the land in reserved forest cannot be displaced until a decision is made/further orders are passed by the Hon'ble Supreme Court. Learned counsel further submits that representations were made by the petitioners to grant them the forest rights under The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006. Therefore, the petitioners cannot be evicted.

3. According to the learned Government Pleader, petitioners are never in possession, they made several attempts earlier and

they were prevented from encroaching into the forest land. The land is in possession of the Forest Department and in the year 2018 plantation work was taken up in the said land and several trees were planted. Petitioners are now again trying to encroach into the forest land by removing the trees already planted.

4. Report filed on 08.01.2019 in the Court of II Additional Judicial First Class Magistrate at Nizamabad also would disclose that the petitioners tried to remove the plants planted by the Forest Department and encroach upon the forest land. This report would show that illegally petitioners tried to encroach into the forest land and they are not in occupation of the forest land.

5. As fairly submitted by the learned Government Pleader, the persons in whose favour right is recognized under the Act of 2006 and certificates issued are not disturbed. However, under the guise of claiming that the petitioners belong to scheduled tribe and are living in the reserved forest area, they cannot encroach into the forest land and try to cultivate the forest land. Therefore, I do not see any merit in the writ petition and the relief sought in the writ petition cannot be granted.

6. Accordingly, the Writ Petition is dismissed.

Miscellaneous petitions, pending if any, shall stand closed.

No order as to costs.

18th July, 2019
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P. NAVEEN RAO, J