

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 19452 of 2019

ORDER:

It is the case of petitioners that they are traditional forest dwelling tribals and belong to Koya community; that they are residing in the forest land of K.W. Chowdavaram Gram Panchayat, Penuballi Mandal, Khammam District, and are eking out livelihood by doing 'podu' cultivation; that they are protected by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (for short 'the Act'), and that the respondent authorities are interfering with their livelihood without issuing any notice and without conducting any enquiry. In the circumstances, they filed the present Writ Petition.

Learned Government Pleader for Forests would assert that the petitioners are migrated from Chattisgarh State and entered into the forest land itself in 2012, as such, they are not entitled to protection under the provisions of the Act; that primarily, the Act is only with respect to the notified tribes, that too, who are residing in the forest land as on the cut-off date i.e., 13.12.2005; that as a matter of fact, K.W.Chowdavaram Gram Panchayat was not in existence as on the cut-off date and it came into existence subsequently and that notices have already been issued to the petitioners, who, however, instead of submitting explanation, had approached this Court.

Learned counsel for the petitioners, while denying the assertion of the learned Government Pleader that notices have already been issued to the petitioners, would assert that the petitioners are eligible for protection under the Act.

Admittedly, the petitioners are residing in the forest land of K.W. Chowdavaram Gram Panchayat, Penuballi Mandal, Khammam District. In view of the same, the question as to whether they are eligible for protection under the Act is required to be determined by the competent authority in accordance with the provisions of the Act, particularly, taking into consideration the cut-off date notified therein.

In those circumstances, the respondent authorities shall issue notice to the petitioners in accordance with the applicable law and take necessary steps to evict them or any other persons, who are in occupation of the forest land, duly following the procedure prescribed. Till such time, the petitioners shall not be evicted from the subject forest land.

With the above directions, this Writ Petition is disposed of.

Miscellaneous Petitions, if any pending, shall stand closed.

There shall be no order as to costs.

CHALLA KODANDA RAM, J

20th SEPTEMBER, 2019.

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