

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 16623 OF 2017

Rama Madi and others ***Petitioners***

Mr. Goutam Mukharjee, Senior Advocate
being assisted by Mr. Amlan Mishra, Advocate
-versus-

State of Odisha and others ***Opp. Parties***

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
21.10.2022

Order No.

5. 1. This matter is taken up through hybrid mode.
2. The Petitioners in this writ petition seek for a direction to the Divisional Forest Officer, Malkangiri-Opposite Party No.2 to issue Timber Transit Permit in favour of them as per the joint verification report communicated to the Divisional Forest Officer, Malkangiri-Opposite Party No.2 by the Tahasildar, Motu on 3rd November, 2012 under Annexure-2.
3. Mr. Mishra, learned Additional Standing Counsel on instruction submits that since the verification report as under Annexure-2 was not accepted, a fresh verification was made on 31st December, 2015 (Annexure-3), which varies from the verification report under Annexure-2. It appears therefrom that most of the trees for which T.T. Permit was applied for were in the forest area. He also refers to the letter dated 24th April, 2016 under Annexure-5 (Annexure-F/3 to the counter affidavit) issued

to the Divisional Forest Officer, Malkangiri Forest Division, Malkangiri, which discloses that the field verification made in presence of the Revenue Inspector, Malkangiri Forest Division, Asst. Conservator of Forest, Malkangiri Division and Forest Guard and submits that most of the trees are more than fifty years old and are not planted by the Petitioners. Hence no T.T. Permit can be issued in favour of the Petitioners.

4. Mr. Mukherji, learned Senior Advocate seriously objects to the submission of Mr. Mishra, learned ASC and submits that the Petitioners were not present during so called field verification made on 31st December, 2015 pursuant to which report under Annexure-3 was submitted. In view of the above, he submits that the said joint verification report under Annexure-3 cannot be relied upon to refuse T.T. Permit to the Petitioners.

5. On verification of the record, more particularly, the aforesaid documents, it is apparent that the reports were prepared in the year, 2012 and 2015. In the meantime, seven years have already elapsed and the Odisha has faced two major cyclones in the meantime. Thus, this Court is of the considered opinion that a fresh joint verification should be made on the application of the Petitioners for grant of T.T. Permit.

6. Accordingly, this writ petition is disposed of with a direction that the Divisional Forest Officer-Opposite Party no.2 shall fix a date of joint verification and issue notice to the Petitioners to be present on the date and time of joint verification. After joint verification is made in accordance with

law, action as deemed just and proper on the application of the Petitioners for issuance of T.T. Permit shall be taken and communicated to the Petitioners. The entire exercise shall be done within a period of two months from the date of production of certified copy of this order before Opposite Party No.2. After joint verification is made, the Petitioner shall given an opportunity of hearing before taking a decision on the application for issuance of T.T. Permit.

7. It is made clear that this Court has not expressed any opinion on the merits of the case of either of the parties.

8. As requested by Mr. Mishra, learned Additional Standing Counsel, a copy of this order be handed over to him for communication and compliance.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge