

THE HON'BLE SMT. JUSTICE P.MADHAVI DEVI

WRIT PETITION No.24510 of 2020

ORDER:

This Writ Petition has been filed challenging the inaction of the respondents in issuing the Forest Rights Passbooks as against the claims of the petitioners in relation to the land in which they are in possession and enjoyment situated at Shettipally and Nallachelukla villages of the Gundala Mandal, Bhadrachalam District in spite of Grama Sabha passing a resolution in their favour with regard to the petitioners claims and the action of the officials of the 6th respondent in earmarking their lands for the purpose of Haritha Haram programme on 22.12.2020 as illegal and arbitrary and consequently to direct the respondents to pass appropriate order in the claims of the petitioners in relation to the land in which they are in possession and to direct the 2nd respondent not to evict the petitioners from the said land and to pass such other order or orders.

2. Learned counsel for the petitioners submitted that the petitioners have been in possession of the Forest land for a long

period of time and that they have made claim petitions before the concerned officers and before the Grama Sabha for issuance of Forest Rights Passbooks. It is submitted that the Grama Sabha has also passed a resolution and the issue is now pending before the 1st respondent.

3. It is submitted that the petitioners did not have the copies of the claim petitions nor do they have the copies of the Grama Sabha resolution, but they are aware of the fact that the Grama Sabha has already verified their claims and have passed a resolution and the issue is now before the 1st respondent. He submitted that the petitioners have subsequently made representations to the respondent Tahsildar, who is the chairman of the 1st respondent and also to the District Collector, who is the chairman of the 2nd respondent and he seeks a direction of this Court to the chairmen of the 1st and 2nd respondents to consider the representations and to verify the records and thereafter issue appropriate directions in this matter.

4. Learned Government Pleader for Forests appearing for the respondents No.5 and 6 have opposed the request of the petitioners counsel. He submitted that there is a procedure laid down under the Scheduled Tribes and other Tradititonal Forest Dwellers (Recognition of Forest Rights) Act, 2006 and rules there under and that the petitioners have to submit the claim forms in accordance with the rules and along with the documents mentioned under Section 2(c) of Rules and Regulations of Scheduled Tribes and other Tradititonal Forest Dwellers (Recognition of Forest Rights) Act, 2006. He submitted that the petitioners have not filed any evidence of filing such applications before this Court.

5. Learned counsel for the petitioners, however, submitted that the Forest Department is one of the party in the Grama Sabha and the respondents No.2 and 3 and it is the revenue authorities, that is the Tahsildar, and the District Collector, who are heading the committees can verify and take appropriate decision thereon.

6. Having regard to the rival contentions and also the material on record and particularly the rules under the Scheduled Tribes and

other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2008. It is noticed that the Forests dwellers have to make the claims in the prescribed form before the Grama Sabha and Grama Sabha after verifying the claims has to make a decision thereon. The Sub-Divisional Level Committee who would thereafter submit their report to the 2nd respondent and thereafter the report of 2nd respondent is submitted to the 3rd respondent who is authorized to take a final decision on such claim petitions.

7. Though the learned counsel for the petitioners has not been able to furnish any evidence to the effect that the petitioners have submitted their claim petitions before the authorities and that such claim petitions have been considered by the Grama Sabha and even the details such as address of the petitioners or the identities of the petitioners is not furnished before this Court, solely in the interest of justice, this Court deems it fit and proper to permit the petitioners to make fresh representations giving the details such as address and identities and submit the fresh representations to the 1st respondent committee and on receipt of such representations,

the 1st respondent is directed to verify the records and if it is found that the claim petitions have been made in accordance with the rules and the Grama Sabha has already submitted a resolution, then the 1st respondent shall consider and pass appropriate resolution for consideration of the claim petitions. This direction is given only in the interest of justice and only to protect the rights of the petitioners and shall not be treated as a precedent in any other case.

8. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall also stand closed.

JUSTICE P.MADHAVI DEVI

Date:20.12.2022
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