

APHC010575182018



**IN THE HIGH COURT OF ANDHRA PRADESH**

**AT AMARAVATI**

**[3330]**

**(Special Original Jurisdiction)**

WEDNESDAY ,THE EIGHTEENTH DAY OF SEPTEMBER  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO**

**WRIT PETITION NO: 27319/2018**

**Between:**

Machavaram Penchalaiah and Others

**...PETITIONER(S)**

**AND**

The State Of Andhra Pradesh and Others

**...RESPONDENT(S)**

**Counsel for the Petitioner(S):**

1.M SUGUNA

**Counsel for the Respondent(S):**

1.GP FOR FORESTS (AP)

2.GP FOR REVENUE (AP)

**WRIT PETITION NO: 28473/2018**

**Between:**

Kommala Pullaiah and Others

**...PETITIONER(S)**

**AND**

The State Of Andhra Pradesh and Others

**...RESPONDENT(S)**

**The Court made the following Common Order:-**

Since the subject matter involved in these Writ Petitions is one and the same, this Court deems it appropriate to dispose of these cases by way of this common order.

2. These writ petitions are filed challenging the action of the 2<sup>nd</sup> respondent in threatening the petitioners to dispossess from their lawful possession in respect of their lands in Sy.Nos.187-2, 187-4 at Chilamanur village and Sy.Nos.4 and 211 at Alimili Village of Balayapalli Mandal, SPSR Nellore District, without issuing any notice and without following the procedure as contemplated under law.

3. The main grievance of the petitioners is that in order to eradicate poverty, the Government has taken policy decision to distribute the lands to the SCs, STs and BCs referred to the concept of Co-operative Joint Farming Societies (CJFS) under which huge extent of lands were brought under its control. For implementation of the same, in the year 1978 the Government identified the Government lands in Sy.Nos.187-2, 187-4 total admeasuring 79.00 cents at Chilamanur village and in Sy.No.4 admeasuring Ac.117.00 gts and in Sy.No.211 admeasuring Ac.10.00 gts., at Alimili Village, Balayapalli Mandal, SPSR Nellore District. The said lands were allotted to the eligible beneficiaries and petitioners are some of the identified beneficiaries. By virtue of the said

allotment, petitioners are cultivating the said lands and they are in possession of the said lands. The 2<sup>nd</sup> respondent without any manner of right, threatening the petitioners to dispossess from the aforesaid lands.

4. The learned counsel for the petitioners contends that even assuming that they are trespassers, they should be evicted only by following due process of law. Hence, prayed to direct the respondents not to evict the petitioners, without following due process of law.

5. The learned counsel for the respondents filed their counter denying the assertions made in the affidavit filed in support of the writ petition and *inter alia* contending that the subject lands are notified under Section 15 of the A.P.Forest Act, 1967, the Revenue authorities ought to have changed the classification of the said lands as 'Reserved Forest' in their records duly following the procedure. Further contended that the 2<sup>nd</sup> respondent had not threatened the petitioners to vacate the land within a couple of weeks and the said lands are under the control of the Forest Department and at any point of time, the lands were under the possession of the petitioners. Hence, the question of threat from the 2<sup>nd</sup> respondent does not arise. On 02.07.2018, when some of the petitioners trying to enter in the subject lands under the guise of the beneficiaries of CJFS formed by the Revenue Department, the Forest Department has explained the nature

of the lands as 'Reserved forest' with reference to the Gazettee notification of Yathaluru RF as well as Yathaluru RF map showing the location of the subject lands and requested them not to enter into the forest area and the petitioners have no right over the subject lands, and the said lands belongs to Forest Department. Therefore, prayed to dismiss the writ petitions.

6. At the time of admission, this Court has granted *status quo* with regard to the possession of the lands. However, it is made clear that under the guise of the interim order the petitioners shall not cut and remove the trees.

7. It is known principle, the State is governed by rule of law, a statutory authority cannot dispossess even a trespasser in settled occupation, without recourse to law.

8. Therefore, these Writ Petitions are disposed of directing the respondents not to dispossess the petitioners except by recourse to procedure in accordance with law. There shall be no order as to costs.

As a sequel thereto, miscellaneous Petitions pending, if any, shall stand closed.

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**JUSTICE TARLADA RAJASEKHARA RAO**

Date: 18.09.2024

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**THE HON'BLE SRI JUSTICE TARLADA RAJASEKHARA RAO**

**WRIT PETITION Nos.27319 and 28473 of 2018**

**Date: 18.09.2024**

**KBN**