

District Collector and Another

Vs

P. Chinna Reddy and Others

Civil Appeal No. 1047 of 1980

(P. B. Sawant, K. Ramaswamy, Ranganathan Misra JJ)

20.10.1989

ORDER

1. This appeal by special leave and the two special leave petitions relate to one matter and arise out of a common dispute. It is unnecessary to refer to the facts, at length as it would be sufficient for disposal of these matters if we give only the broad frame of the case.
2. With a view to providing cultivable lands to sixteen tribals within East Godawari District of Andhra Pradesh, government gave five acres of land to each of the persons and the terms of lease were provided in D-From patta. After the lessees came into possession of their respective leasehold lands, they found that there were lots of overgrowth, some of which they cut down and wanted timber transit permits to be given to them for removed of the timber of the felled trees. When timber transit permits were not granted they applied to the High Court for a direction for their grant. The appeal and the special leave petitions arise out of such proceedings taken before the High Court.
3. It is the case of the appellants who are respectively the District Collector and the District Forest Officer of East Godawari that the lands which were intended to be given by way of lease were different from what the respondents have been claiming and the property which they claim to be in their possession as lessees are really forest lands with thick overgrowth. The District Forest Officer who is present in court at the time of bearing has told us that enumeration has been made of the standing trees on the 80 ares of land claimed by the appellants and it has been ascertained that there are more than 8000 trees. It is claimed that this area had been notified as reserved forest as early as 1942 under the Madras Forest Act and could not have been leased out by the District Collector.
4. We are satisfied that the State Government intended to benefit the tribals by providing cultivable lands and the lands which have been given or, at any rate in which the lessees claim to be in possession, are not immediately suitable for cultivation. Counsel for the appellants has told us that government is prepared to give to each of the tribals five acres area of cultivable land free from any overgrowth and which could be put into cultivation forthwith. It is stated that these lands have already been identified and are not far away from the site where the disputed property is located. It is contended, and we find no reason not to accept such contention, the government never intended to part with a portion of the reserved forest in favour of the tribals and in case the particulars given in the pattas refer to the reserved forest it must be the outcome of non-application of mind by the public officers or on account of bona fide mistake. In the circumstances, we accept the offer given by the appellants that each of the non-tribals would be given five acres of land on the same conditions as are incorporated in the pattas. We would like to not here that within the frame of the dispute the question of change of the leasehold land did not arise but taking a broad view of the matter and with a view to doing complete justice to the parties and freeing the tribals from litigation

we have thought it proper to dispose of these cases with the following directions :

Within two months from today the appellants shall put each of the sixteen lessees into possession of five acres of cultivate land in lieu of the lands which the tribals are now claiming and the leases to be granted shall be on the same terms as contained in D-form patta. In addition to the leasehold land, each of the lessees shall be given a cash amount of Rs. 2000 per acre so that each of them would be entitled to a sum of Rs. 10,000. This would sufficiently compensate the lessees for their investments made for improving the land. These amounts shall also be paid along with delivery of possession of the new leasehold property. We suggested to the District Forest Officer who is present in court that steps should be taken to provide a permanent water source for these 80 acres of land. We direct that the appellants, and for the matter of that the State of Andhra Pradesh whom the appellants represent, shall provide a permanent water source either by way of digging a deep well sufficient enough to provide water for 80 acres of land to be irrigated or have a minor irrigation project for storing rain water for purpose of cultivation. Either of the two things should be done within six months from now.

5. The appeal is allowed to the extent indicated but subject to the conditions stated. The appellants shall file an undertaking before this Court that within two months from now the lands and the payment as envisaged above shall be made. The undertaking shall also state that within six months from now the water source shall be provided. The undertaking should be filed within four weeks from now. A return shall be filed in the Registry of this Court by the appellants within ten weeks from now that there has been a compliance of the first two directions and another return filed within seven months from now regarding water source.

6. This Court had made an earlier order that whatever be the result of the litigation the respondents should have costs of the appeals. We accordingly direct that in this appeal and the special leave petitions which are disposed of by this judgment the respondents shall be entitled to costs admissible under the court's rules.

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