

ITEM NO.301-PH

COURT NO.5

SECTION PIL(W)/XII/XVIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 50/2008

WILDLIFE TRUST OF INDIA & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(with appln. (s) for direction/stay and exemption from filing O.T. and office report)

WITH

W.P.(C) No. 514/2006
(With Office Report)

W.P.(C) No. 109/2008
(With appln.(s) for directions and appln.(s) for exemption from filing O.T. and ex-parte stay and permission to file addl. documents and Office Report)

S.L.P.(C)...CC No. 11408-11409/2009
(With appln.(s) for c/delay in filing SLP and Office Report)

T.C.(C) No. 85/2011
(With Office Report)

T.C.(C) No. 87/2011
(With Office Report)

T.C.(C) No. 39/2015
(With appln.(s) for impleadment as party respondent and appln.(s) for may refer to remarks and Office Report)

T.C.(C) No. 41/2015

T.C.(C) No. 59/2015

T.C.(C) No. 103/2015

T.C.(C) No. 132/2015

T.C.(C) No. 3/2016

Signature Not Verified
Digitally signed by A.HOK
RAJ SINGH
Date: 2016.01.29 12:29:46
IST
Reason: DSC of Sh. Ashok
Raj Singh
Sh. Deep...

Date : 29/01/2016 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
 HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE
 HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.
 Mr. P. K. Manohar, Adv.

 Mr. Raj Panjwani, Sr. Adv.
 Ms. Purnima Bhat, Adv.
 Mr. Pati Raj Yadav, Adv.
 Mr. Avtar Singh Chauhan, Adv.

Wildlife Trust Mr. Naveen Sharma, Adv.
 Mr. Saurabh Mishra, Adv.

 Mr. Shreekant N. Terdal, Adv.

 Mr. Ashok Kumar Singh, Adv. (NP)

 Mr. D. Mahesh Babu, Adv.

 Mrs. Revathy Raghavan, Adv.

 Mr. Balaji Srinivasan, Adv.

 Mr. Shibashish Misra, Adv.

For Respondent(s)

UOI

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 Mr. S.N. Terdal, Adv.
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 Mr. Ashok Panigrahi, Adv.
 Mr. Surajit Bhaduri, Adv.
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 Mr. Neeraj K. Sharma, Adv.

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 Ms. A. Subhashini, Adv.

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 Mr. B. Kaushbansi, Adv.
 Mr. Ashok Kr. Singh, Adv.
 Mr. Z.H. Issac Haiding, Adv.

State of Odisha Mr. Pawan Upadhyay, Adv.
 Mr. Sarvjit Pratap Singh, Adv.

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 Ms. Jesal Wahi, Adv.
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 M/s. Arputham Aruna & Co.
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 Mr. Sidharth Mohan, Adv.
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Mr. Ajay Pal, Adv.

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Mr. V.G. Pragasam, Adv.

Mr. Jayant Mohan, Adv.

Mr. Kuldip Singh, Adv.

Ms. Sharmila Upadhyay, Adv.

Mr. Nikhil Nayyar, Adv.

Mr. Radha Shyam Jena, Adv.

UPON hearing the counsel the Court made the following
O R D E R

In these batch of matters, the constitutional validity of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and also the questions pertaining to the preservation of forests in the context of the above-mentioned Act, fall for the consideration of this Court.

Mr. Shyam Divan, learned senior counsel for the petitioner placed before us certain statistical data which indicates that as on 30th September, 2015, approximately 44 lakh claims for recognition of the Rights under the above-mentioned Act and grant of Pattas came to be filed before the authorities competent to deal with those claims in various States out of which some of the claims were accepted and some were rejected. From the information placed before this Court by the petitioners, it appears, approximately 20.5 lakh claims were rejected in the above-mentioned 44 lakh claims.

Obviously, a claim in the context of the above-mentioned Act is based on an assertion that a claimant has been in possession of a certain parcel of land located in the forest areas. If the claim is found to be not tenable by the competent authority, the result would be that the claimant is not entitled for the grant of any

Patta or any other right under the Act but such a claimant is also either required to be evicted from that parcel of land or some other action is to be taken in accordance with law.

Therefore, we deem it appropriate to find out as to what action was taken against the claimants whose claims have already been rejected. At this stage, we are informed by the Mr. P.S. Narsimha, learned Additional Solicitor General that the action insofar as persons who are unauthorisedly in possession of forest land, is required to be taken by the concerned State Governments and its authorities under the relevant laws in force in each one of the States.

In the circumstances, we are of the opinion that each one of the respondent-States should file an affidavit giving the data regarding the number of claims rejected within the territory of that State and the extent of land over which such claims were made and rejected and the consequent action taken up by the State after the rejection of the claim, with all appropriate data in support of the above-mentioned information within a period of two weeks from today.

List all the matters on Monday, the 15th February, 2016 at 2.00 p.m.

However, insofar as State of Tamil Nadu is concerned, it is brought to our notice that by virtue of an interim order dated 30th April, 2008, the authorities in the State of Tamil Nadu acting under the impugned Act are restrained from issuing any Patta without obtaining orders of the High Court though the examination of the entitlement of the claimants was not barred by the said interim order. In view of the said interim order, the State Government is not in a position to give the information regarding the tenable claims. It goes without saying that no further action could be taken regarding the eviction of the encroachers in view of the said restraint of the authority to adjudicate the claims.

It appears that by an Order dated 6th January, 2015 this Court withdrew the Writ Petition No. 4533 of 2008 pending in the High Court in which the above-mentioned interim order came to be passed and transferred it to this Court, re-numbered as Transferred Case No. 39 of 2015. In view of the above-mentioned facts, State of Tamil Nadu need not file an affidavit referred to earlier, as directed above, for the time being.

Learned Additional Solicitor General as well as learned counsel for the State of Tamil Nadu also prayed that the above-mentioned interim order be vacated.

However, learned counsel for the writ petitioner in the transferred case no. 39 of 2015 is not present. We, therefore, deem it appropriate to direct the Registry to list Transferred Case No. 39 of 2015 on Monday, the 1st February, 2016 at 2.00 p.m. for consideration of the above-mentioned prayer of the State of Tamil Nadu.

(DEEPAK MANSUKHANI)
COURT MASTER

(INDU BALA KAPUR)
COURT MASTER