

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF MAY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION NO: 6725 OF 2009

Between:

1. Forum For A Better Hyderabad Represented by its General Secretary O.M. Debara, Mani Minar No.4-1-913, Tilak Road, Hyderabad
2. Dr. Rao V.B.J. Chelikani, S/o. Sri C.V.B.G. Rama Rao Aged 66 years, R/o. H.No. 12-13-705/10/A, Balaji Residency, Gokul Nagar, Tarnaka, Secunderabad.

...PETITIONERS

AND

1. The Govt. of India, Ministry of Environment & Forests Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi – 110 003. Represented by its Secretary.
2. The Government of Andhra Pradesh, Environment, Forests, Science & Technology Dept. (Forests.I) Dept., Secretariat, Hyderabad Reptd. by its The Principal Secretary
3. The Government of Andhra Pradesh, Represented by its Principal Secretary Revenue (Asn.V) Department, Secretariat, Hyderabad.
4. The Principal Chief Conservator of Forests, Government of Andhra Pradesh Aranya Bhavan, Saifabad, Hyderabad.
5. The Chief Conservator of Forests, Hyderabad Circle Aranya Bhavan, Saifabad, Hyderabad.
6. The Divisional Forest Officer, Hyderabad and Ranga Reddy Division Aranya Bhavan, Saifabad, Hyderabad.
7. The Director, Animal Husbandry Department Hyderabad.
8. The Andhra Pradesh Industrial Infrastructural Development, Corporation, Reptd. by its Vice Chairman and Managing Director 6th Floor, 5-9-58/B, Parisram Bhavan, Basheerbagh, Hyderabad
9. The District Collector, Ranga Reddy District Lakdikapool, Hyderabad.
10. The Andhra Pradesh Housing Board, Rep. by its Chairman & Managing Director Gruha Kalpa, Nampally, Hyderabad.

11. M/s. Indu Techzone Pvt. Ltd., No. 1009, XIII Phase, Adjacent to VII Phase, Kukatpally, Hyderabad – 500 072
12. M/s. Brahmani Infratech Pvt. Ltd., No. 6-3-1109/1, Nava Bharat Chambers, Raj Bhavan Road, Hyderabad – 500 082
13. M/s. Stargaze Properties Private Limited, Construction House 'A', 24th Road Khar (West), Mumbai - 400 052.
14. M/s. Aga Khan Foundation, Sarojini House, 2nd Floor, 6, Bhagavandas Road, New Delhi – 110 001
15. M/s. JT Holdings Pvt. Ltd., C-1, Udyog Sadan, MIDC., Andheri East, Mumbai – 400 093
16. M/s. HCL Info Systems Ltd., HCL Towers, # 44 Dwarakadas Colony, Chikoti Gardens, Begumpet, Hyderabad - 500 016
17. M/s. Gitanjali Gems Limited, # 6, Back Bay View, III Floor, Mama Paramanand Road, Opera House, Mumbai – 400 004
18. M/s. Astra Microwave Products Limited, 1-2-64/A, I Floor, Vikram Chambers, Parklane, Secunderabad – 500 003
19. M/s. Anantha Technologies Limited, Plot No. 1355 A, Roac No. 1, Jubilee Hills, Hyderabad - 500 033.
20. M/s. Kernex Mirco Systems, Plot No. 7, Software Units Layout, Machhapur, Hyderabad – 500 081.
21. Smt. Koneru Govardhana, wife of K. Venkateswara Rao, Hindu, aged about 60 years, Occupation House wife, Resident of Plot No.9, Model Colony, Hyderabad – 500 018
22. Koneru Rani, wife of Dr. N.S.D. Prasad Rao, Aged 46 years, Occupation House wife, Resident of 4-115, Sriharinagar, Musapet, Hyderabad – 500 018
23. Koneru Satyavathi, Wife of Late K. Rama Brahman, Aged about 58 years, Occupation House wife, Resident of Plot No.9, Model Colony, Hyderabad.
24. Konery Gajendramma, wife of Konery Seetharamaiah, Aged 72 years, Occupation House Wife, Resident of Plot No.9, Model Colony, Hyderabad
25. Koneru Dhanalakshmi Wife of Late K.V. Krishna Rao, Hindu, Aged about 68 years, Occupation House wife, Resident of Plot No.9, Model Colony, Hyderabad.
26. Koneru Rudramma, Daughter of Late K.V. Krishna Rao, Aged about 46 years, Occupation House wife, Resident of Plot No.9, Model Colony, Hyderabad.
27. Ch. Vijayalakshmi, wife of Ch. Sambasiva Rao, Aged about 55 years, Occupation House wife, Resident of Khanna Nagar, Behind Eranadu, Vijayawada, Krishna District.
28. Donepudi Sambasiva Rao, son of D. Satyanarayana, Aged about 50 years, Occupation Business, Resident of Plot No.9, Model Colony, Hyderabad.
29. Yelamanchili Baby Sarojini, wife of Y. Jawaharlal, Aged about 63 years, Occupation House wife, Resident of Plot No.9, Model Colony, Hyderabad.
30. Nimmagadda Annapurna, daughter of N. Subba Rao, Aged about 42 years, Occupation Service, R/o. 4-1/5, Srihari Nagar, Moosapet, Hyderabad.

31. Nimmagadda Seethamma, daughter of N. Madhava Rao, Aged about 43 years, Occupation Service, Resident of 4-115, Sriharinagar, Hyderabad – 18.
And

32. V. Rama Krishna son of V. Madana Mohana Rao, Aged 42 years, Occupation Business, Resident of Plot No.9, Model Colony, Hyderabad.

(Respondent No.21 to 32 are impleaded as per Court Order dated 25.06.2009 in WPMP No.10047/09)

33. Deccan Infrastructure and Land Holdings Ltd, Represented by its General Manager – Land Administration V. Vijaya Kumar S/o. V. Vittal, Aged 53 years, having its Office in Gruha Kalpa, Opp: Gandhi Bhavan, M.J. Road, Nampally, Hyderabad.

(Respondent No.33 is impleaded as per Court Order dated 02.05.2024 Vide I.A.No.4 of 2009 (WPMP No.14478 of 2009) in WP.No.6725 of 2009)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of a writ of mandamus declaring - (i) the action of Respondent No.2 to 10 in diverting an extent of Ac.4067 forest land situated in Imarath Kancha Village, Maheshwaram Mandal, Ranga Reddy District which was purchased by the Forest Dept. in the year 1956 from the estate of HEH the Nizam under the provisions of the Land Acquisition Act and the same was notified as forest area under Section 15 of the A.P. Forest Act, 1967 vide G.O.Ms. No.253 F and A (For.III) Dept. dated 25-2-1972 and further an extent of Ac.2400-36 guntas situated in Mamidipally Village, Saroor Nagar Mandal, Ranga Reddy District purchased by the Forest Dept. in the year 1956 from HEH the Nizam and notified as forest area under Section 4 of the Andhra Pradesh (Telangana Area) Forest Act, 1355 F vide G.O.Ms. No.2199 F and A (For.III) Dept. dated 26-8-1965 to Non-forest purpose without de-notifying and without obtaining the prior permission of the Government of India as illegal, Arbitrary, violative of the provisions of The Forest (Conservation) Act 1980 and contrary to the Article 14, 21 and 48A of the Constitution of India and the series of directions issued by the Honble Supreme Court of India in T.N. GODAVARMAN THRIUMULKPAD Case. (ii) to direct the official Respondent to remove all the constructions raised contrary to provisions of The Forest (conservation) Act 1980 and to restore and maintain the subject forest land in accordance with the provisions of the Forest (conservation) Act 1980 and Wild Life Protection Act 1972 etc. (iii) To direct the Respondent Nos. 2 and 3 to raise fence around Kancha Imarat and Mamidipally forest blocks and to remove all encroachments and to stop all non-forest activities.

I.A. NO: 1 OF 2009(WPMP. NO: 8790 OF 2009)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to appoint a team of officers drawn from forest, revenue and Land Survey Department to identify and localize Ac.4067-00 of Imarath Kancha Forest Block situated in Raviral Village of Maheshwaram Mandal and an extent of 2400 Ac. 36

Guntas of Mamidipally Forest Block situated in Mamidipally Village, Saroor Nagar Mandal of Ranga Reddy District and report the present status of the land and the extent of constructions by clear demarcation.

I.A. NO: 2 OF 2009(WPMP. NO: 8791 OF 2009)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents to stop all further constructions and non-forest activities in the lands located in Ac.4067-00 of Imarath Kancha Forest Block situated in Raviral village of Maheshwaram mandal and an extent of 2400 Ac 36 Guntas of Mamidipally Forest Block situated in Mamidipally Village, Saroor Nagar Mandal of Ranga Reddy District and not to make any further allotments in the subject forest blocks.

Counsel for the Petitioners: SRI GANDRA MOHAN RAO

Counsel for the Respondent No.1: M/s. ANJALI AGARWAL

Counsel for the Respondent No.2 & 4 to 6: GP FOR FORESTS

**Counsel for the Respondent No.3 & 9: GP FOR REVENUE /
SRI MOHD. IMRAN KHAN,
ADDL ADVOCATE GENERAL**

Counsel for the Respondent No.7: GP FOR ANIMAL HUSBANDARY

Counsel for the Respondent No.8: SRI B.P. MOHAN

**Counsel for the Respondent No.10: SRI G. VISHWESHWAR REDDY
(SC FOR TSHB)**

Counsel for the Respondent No.11: SRI B. VIJAY KUMAR

Counsel for the Respondent No.12: SRI C. GUNARANJAN

Counsel for the Respondent No.13 & 15: SRI P. SRI RAGHU RAM, SR. COUNSEL

**Counsel for the Respondent No.18: Ms. JAGRITI DUGAR REPRESENTING FOR
Dr. VENKAT REDDY DONTI REDDY**

Counsel for the Respondent No.19: SRI J. SESHAGIRI RAO

Counsel for the Respondent No.21 to 32: M/s. K. LALITHA

Counsel for the Respondent No.33: SRI P. RAVI PRASAD

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION No.6725 OF 2009

ORDER: *(per the Hon'ble Shri Justice Anil Kumar Jukanti)*

Mr. Gandra Mohan Rao, learned Senior Counsel for the petitioners.

Ms. Anjali Agarwal, learned counsel for respondent No.1.

Mr. Mohammed Imran Khan, learned Additional Advocate General for the State.

Mr. B.Vijay Kumar, learned counsel for respondent No.11.

Mr. P.Sri Raghu Ram, learned Senior Counsel for respondent Nos.13 and 15.

Ms. Jagriti Dugar, learned counsel representing Dr. Venkat Reddy Donthi Reddy, learned counsel for respondent No.18.

2. In this writ petition filed as public interest litigation, the petitioners have prayed for the following reliefs:

“...to issue a writ, order or direction particularly one in the nature of Mandamus declaring –

- i. *The action of Respondent Nos.2 to 10 in diverting an extent of Ac.4067 forest land situated in Jmarath Kancha village, Maheswaram Mandal, Ranga Reddy District which was purchased by the Forest Department in the year 1956 from the estate of HEH the Nizam under the provisions of the Land Acquisition Act and the same was notified as forest area under Section 15 of the A.P. Forest Act, 1967 vide G.O.Ms.No.253 F&A (For.III) Department dated 25.02.1972 and further an extent of Ac.2400-36 guntas situated in mamidipally village, Saroornagar Mandal, Ranga Reddy District, purchased by the Forest Department in the year 1956 from HEH the Nizam and notified as forest area under Section 4 of the Andhra Pradesh (Telangana Area) Forest Act, 1355 F vide G.O.Ms.No.2199 F&A (For.II) Department dated 26.08.1965 to Non-forest purpose without de-notifying and without obtaining the prior permission of the Government of India as illegal, Arbitrary, violative of the provisions of the Forest (Conservation) Act, 1980 and contrary to the Article 14, 21 and 48A of the Constitution of India and the series of directions issued by the Hon'ble Supreme Court of India in T.N.Godavarman Thriamulypad case.*
- ii. *To direct the official respondent to remove all the constructions raised contrary to provisions of the Forest (Conservation) Act, 1980 and to restore and maintain the subject forest land in accordance with*

the provisions of the Forest (Conservation) Act, 1980 and Wild Life Protection Act 1972 etc.

iii. To direct the respondent Nos.2 and 3 to raise fence around kancha Imarat and Mamidipally forest blocks and to remove all encroachments and to stop all non-forest activities..."

3. Brief facts of the case:

According to the petitioners, the Forest Department of erstwhile Government of Andhra Pradesh on 23.02.1956 purchased 14 Gross Kancha measuring about Acs.15964.15 guntas from HEH Nizam vide land acquisition proceedings No.1348/1105/A3/55.6 situate at Raaviryal Village and Mamidipally Kancha. The erstwhile Government issued a Gazette on 15.03.1956, wherein the details of the land acquired by the Forest Department were published.

3.1. Thereafter, vide G.O.Ms.No.1720, Food and Agriculture (For-III) issued on 25.06.1965 by which land measuring Acs.4408.20 guntas was declared as forest block under Section 4 of the Andhra Pradesh (Telangana Area) Forest Act, 1355 Fasli. The aforesaid G.O.Ms.No.1720 was published in the State Gazette on 08.07.1965. Thereafter, another

G.O.Ms.No.253, Forest and Agriculture (For-II) was issued notifying Acs.4067.00, out of Acs.4408.20 guntas of forest land in Imarath Kancha under Section 15 of the Andhra Pradesh Forest Act, 1967. The aforesaid G.O.Ms.No.253 was also published in the State Gazette on 06.04.1972.

3.2. According to the averments made in the petition, G.O.Ms.No.2292, Food and Agriculture Department was issued on 06.09.1965 by which possession of land measuring Acs.331.20 of Imarath Kancha land was handed over to Animal Husbandry Department of the erstwhile Government of Andhra Pradesh. Thereafter, the State Government issued G.O.Ms.No.2199, Food and Agriculture (For-III) Department under Section 4 of the Andhra Pradesh (Telangana Area) Forest Act, 1955 Fasli notifying Acs.2,400.36 guntas of Mamidipalli Forest Block. The aforesaid G.O.Ms.No.2199 was published in the State Gazette on 16.09.1965.

3.3. Thereafter, the State Government by an order dated 24.03.1966 issued entire area of Acs.4076.20 guntas of

Imarath Kancha Forest land for missile testing on lease for two years to Defence authorities. Thereafter, another G.O.Ms.No.1224, Food and Agriculture Department, was issued on 19.09.1969 extending lease for a period of two years.

3.4. Another G.O.Ms.No.1028, Food and Agriculture (For.I) was issued on 23.07.1971 directing the Chief Conservator of Forests to transfer the entire land measuring Acs.4067.20 guntas to Animal Husbandry Department for establishment of Sheep Breeding Farm. The possession of the aforesaid land was handed over to the Sheep Breeding Farm on 07.12.1972.

3.5. Thereafter, sometime in April, 2000, land measuring Acs.1109.00 of Imarat Kancha Forest Block was handed over to Andhra Pradesh Industrial Infrastructure Corporation (APIIC) and the possession of the same was handed over on 12.09.2005 to the APIIC. Thereafter, the Revenue Department of erstwhile Government of Andhra Pradesh issued G.O.Ms.No.261, Revenue (Asn.V) Department dated

21.02.2009 alienating Acs.981.32 guntas of land in favour of APIIC, in survey No.99/1 of Mamidipally Village, Saroornagar Mandal, Ranga Reddy District.

3.6. Thereupon, the petitioners have filed this public interest litigation mainly on the ground that forest lands have been diverted for non-forest use in contravention of the provisions of the Forest (Conservation) Act, 1980. The petitioners, in this petition filed as Public Interest Litigation, are seeking a direction to stop all construction activities and to restore the status of the land.

4. Learned Senior Counsel for the petitioners submitted that the Forest Department of the Government of Telangana continues to be the owner of the land and the land in question continues to be the forest land. It is further submitted that Acs.6468.00 of forest land has been converted for non-forest purpose in contravention of the Forest (Conservation) Act, 1980 and in contravention of the directions of the Supreme Court in **T.N.Godavarman**

Thirumulkpad vs. Union of India¹. It is urged that there was no de-notification of the forest land. Learned Senior Counsel for the petitioners has also invited the attention of this Court to the provisions of the Hyderabad Forest Act, 1355 Fasli and the Andhra Pradesh Forest Act, 1967 as well as the Forest (Conservation) Act, 1980.

5. On the other hand, learned Additional Advocate General for the State, at the outset, submitted that the writ petition suffers from delay and laches. While inviting the attention of this Court to Hyderabad Forest Act, 1355 Fasli, it is contended that no notification under Section 19 of the Act was issued declaring the land to be reserve forest. It is also submitted that the Forest (Conservation) Act came into force in the year 1980. Learned Additional Advocate General has further submitted that the decision was taken to de-notify the land in Mamidipally Kancha, which is evident from communication dated 21.12.1966. It is also pointed out that the State Government had sought the permission of the

¹ (1997) 2 SCC 267

Government of India, Ministry of Environment and Forests seeking de-reserve 3.10 hectares of forest land in Sirchelma reserve forest block in Adilabad District. It is pointed out that in response to the aforesaid proposal, the State Government was informed that any project settled by the State Government prior to 15.10.1980 need not be referred to the Central Government for permission under the Forest (Conservation) Act, 1980. It is, therefore, urged that in view of the expansion of city of Hyderabad and the fact that several industries have come up, intervention of this Court at this point of time is unwarranted.

6. Learned Senior Counsel for respondent Nos.13 and 15 submitted that the aforesaid respondents are companies registered under the Companies Act, 1956. It is pointed out that erstwhile Government of Andhra Pradesh had entered into Memorandum of Undertakings dated 09.12.2004 and 12.07.2006 for the purpose of developing Information Technology and was sold to the private respondents for

valuable consideration. The respondent Nos.13 and 15 are *bona fide* purchasers for consideration. It is submitted that respondent No.13 has purchased the land measuring Acs.50.00 by registered sale deed, where they are running their offices. It is also submitted that the said land is declared as Special Economic Zone (SEZ) for electronic hardware park. It is pointed out that the petitioners have not been diligent in prosecuting the writ petition. It is also pointed out that the jurisdiction to deal with the public interest litigation should be exercised very rarely and in deserving cases. It is urged that public interest litigation can be entertained on behalf of large number of people who cannot afford litigation and are made to suffer at the hands of the authorities. It is also urged that the instant writ petition is not such a case. No relief can be granted to the petitioners and the writ petition suffers from delay and laches.

7. Heard learned counsels and perused the record.

8. Chapter I of the Hyderabad Forest Act, 1355 Fasli deals with 'Reserved Forests'. Section 4 provides that whenever it has been decided to constitute any land as forest land, the Government shall publish a notification in the Jareeda declaring that it is proposed to constitute such land as a reserved forest and shall specify the situation and limits of such land. The Government in addition shall appoint an officer, namely Forest Settlement Officer to enquire into and determine the existence, nature and extent of rights alleged to exist in favour of any person in or over any forest land. Section 6 deals with proclamation by the Forest Settlement Officer. Section 19 of the Act deals with notification declaring reserved forest. Sections 4, 6 and 19 of the Hyderabad Forest Act, 1355 Fasli read as under:

4. Notification by Government:- (1) *Whenever it has been decided to constitute any land a reserved forest, the Government shall publish a notification in the Jareeda:-*

(a) *declaring that it is proposed to constitute such a land a reserved forest;*

- (b) specifying, as nearly as possible, the situation and limits of such land; and
- (c) appointing an officer (hereinafter called "the Forest Settlement Officer") to enquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land or forest produce comprised within such limits, and to deal with the same as provided in this Chapter.

(2) Nothing in this section shall prevent the Government from appointing a Committee consisting of 3 or less than 3 officers, not more than one of whom shall be a person holding any forest office, to perform the duties of a Forest Settlement Officer for the purposes of this section.

6. Proclamation by Forest Settlement Officer:-

When a notification has been issued under Section 4, the Forest Settlement Officer shall publish in Urdu and in the local vernacular in every town and village and at the headquarters of the Taluqa in which any portion of land comprised therein, a proclamation:-

- (a) specifying, as nearly as possible, the situation and limits of the land desired to be constituted a reserved forest;

- (b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and
- (c) fixing a period of not less than four months from the date of the aforesaid proclamation, and requiring every person claiming any right mentioned in Section 4 or Section 5 to present to such officer within such period, a written notice specifying the nature of the right claimed, or to appear before him and state the nature of such right and the amount and particulars of such compensation, (if any) claimed in respect thereof.

19. Notification declaring forest reserved:-(1)

When the following events have occurred:-

- (a) the period fixed under Section 6 for preferring claims has expired, and the claims made within such period have been disposed of by the Forest Settlement Officer;
- (b) where such claims have been made, the period fixed by Section 16 for appeal from the orders passed on such claims has expired and all appeals presented within such period have been disposed of by the officer or Court; and
- (c) all lands to be included in the proposed reserved forest, which the Forest Settlement Officer has under Section 10 elected to acquire

under the Land Acquisition Act have become vested in the Government under Section 13 of the said Act,

the Government shall publish a notification specifying definitely according to boundary marks erected or otherwise the limits of the forest which is to be reserved and declaring the same to be reserved from a date fixed by the notification."

9. The Hyderabad Forest Act, 1355 Fasli was repealed by the Andhra Pradesh Forest Act, 1967, which is now known as the Telangana Forest Act, 1967. Chapter II deals with reserved forests. Section 4 deals with notification by the Government, whereas Section 6 deals with proclamation by Forest Settlement Officer. Section 15 of the Act provides for notification declaring the reserved forest. Sections 4, 6 and 15 of the Telangana Forest Act, 1967 read as under:

"4. Notification by Government:-(1) *Whenever it is proposed to constitute any land as a reserved forest, the Government shall publish a notification in the Telangana Gazette and in the District Gazette concerned if any;*

(a) *specifying, as nearly as possible, the situation and limits of such land*

- b) declaring that it is proposed to constitute such land as reserved forest;
- (c) appointing a Forest Settlement Officer to consider the objections, if any, against the declaration under Clause (b) and to enquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, or to any forest produce of such land, and to deal with the same as provided in this Chapter.

Explanation:-(1) For the purpose of Clause (a), it shall be sufficient to describe the limits of the land by any well-known or readily intelligible boundaries, such as roads, rivers, bridges and the like.

(2) A person appointed to be a Forest Settlement Officer under Clause (c) of sub-section (1) shall be an officer of the Revenue Department not below the rank of a Revenue Divisional Officer.

(3) Any forest officer may represent the Forest Department at the inquiry conducted under this Chapter.

6. Proclamation by Forest Settlement Officer:- (1)

Where a notification has been issued under Section 4, the Forest Settlement Officer shall publish in the main language of the district, in the District Gazette concerned or where there is no such Gazette, in the Telangana Gazette, and in the regional language in every town and village and at the headquarters of each taluk and at the office of the Gram

panchayat, in which any portion of land included in the said notification is situated, a proclamation,-

- (a) specifying, as nearly as possible, the situation and limits of the land proposed to be included within the reserved forest;*
- (b) setting forth the substance of the provisions of Section 7;*
- (c) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and*
- (d) fixing a period of not less than six months and not more than one year from the date of publishing such proclamation at the headquarters of the taluk, and calling for objections, if any, within the period so fixed from any person interested against the declaration under Clause (b) of sub-section (1) of Section 4, and requiring every person claiming any right in such land either to present to the said officer, within the period so fixed, a written statement specifying, or to appear before him within the said period and state, the nature of such rights, and in either case to produce all documents in support thereof.*

(2) The Forest Settlement Officer shall also serve in the manner prescribed, a copy of the proclamation on every known or reputed owner or occupier of any land included in

or adjoining the land proposed to be constituted as a reserved forest, or on his recognised agent or manager.

15. Notification declaring Forest reserved:-(1)

Upon the occurrence of the following events namely:-

- (a) the period fixed under Section 6 for preferring of an objection or a claim had elapsed, and every objection or claim made under that section was disposed of by the Forest Settlement Officer; and
- (b) if any such claim was made, the period limited by Section 13 for preferring an appeal from the order passed on such claim had elapsed, and every appeal presented within such period was disposed of by the appellate authority; and
- (c) all proceedings mentioned in Section 10 were taken and all lands, if any, to be included in the proposed forest, which the Forest Settlement Officer had, under Section 10, elected to acquire under the Land Acquisition Act, 1894, had become vested in the Government under Section 16 of that Act;

the Government may publish a notification specifying definitely according to the boundary marks erected or otherwise, the limits of the forest which it is intended to reserve and declaring the same to be reserved from a date to

be fixed by such notification and from the date so fixed, such forest shall be deemed to be a reserved forest.

(2) Copies of the notification shall also be published in the District Gazette, if any, and in the manner provided for the proclamation under Section 6."

10. The Forest (Conservation) Act, 1980 came into force with effect from 17.12.1980 and is an Act to provide for conservation of forests and for matters connected therewith or incidental thereto. Section 2 of the Act provides for restriction on the dereservation of forests or use of forest land for non-forest purpose. Section 2 of the Forest (Conservation) Act, 1980 reads as under:

"2.Restriction on the dereservation of forests or use of forest land for non-forest purpose.-(1)
Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-

- (i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

- (ii) that any forest land or any portion thereof may be used for any non-forest purpose.
- (iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government;
- (iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reforestation.

Explanation.--For the purposes of this section "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for--

- (a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;
- (b) any purpose other than reforestation,

but does not include any work relating to or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes."

Thus, it is clear that if an area is a reserved forest within the meaning of any law for the time being in force in that State, the reserved forest shall not be used for any non-forest purpose.

11. In **R & M.Trust vs. Koramangala Residents Vigilance Group**², the Supreme Court in paragraph 34 held as under:

“34. There is no doubt that delay is a very important factor while exercising extraordinary jurisdiction under Article 226 of the Constitution. We cannot disturb the third-party interest created on account of delay. Even otherwise also why should the Court come to the rescue of a person who is not vigilant of his rights?”

12. It is trite law that the doctrine of delay and laches applies to the public interest litigation as well. The Supreme Court in **Bombay Dyeing and Manufacturing Company Limited v. Bombay Environmental Action Group**³, in paragraph 341 has held as under:

“341. Delay and laches on the part of the writ petitioners indisputably have a role to play in the matter of

² (2005) 3 SCC 91

³ (2006) 3 SCC 434

grant of reliefs in a writ petition. This Court in a large number of decisions has categorically laid down that where by reason of delay and/or laches on the part of the writ petitioners the parties altered their positions and/or third-party interests have been created, public interest litigations may be summarily dismissed. Delay although may not be the sole ground for dismissing a public interest litigation in some cases and thus, each case must be considered having regard to the facts and circumstances obtaining therein, the underlying equitable principles cannot be ignored. As regards applicability of the said principles, public interest litigations are no exceptions. We have heretofore noticed the scope and object of public interest litigation. Delay of such a nature in some cases is considered to be of vital importance. (See Chairman & MD, BPL Ltd. v. S.P. Gururaja [2003, 8 SCC 567].)

13. In the instant case, the possession of the land measuring Acs.331.20 guntas of Imarath Kancha land was handed over on 06.09.1965 to Animal Husbandry Department. Thereafter, on 24.03.1966, the erstwhile Government of Andhra Pradesh handed over Acs.4067.20 guntas of Imarath Kancha forest land to defence authorities for missile testing on lease for a period of two years, which was subsequently renewed. Thereafter, on 23.07.1971,

G.O.Ms.No.1028 was issued directing the Chief Conservator of Forests to transfer the land measuring Acs.4067.20 guntas for establishment of Sheep Breeding Farm. Thereafter, the possession was handed over to the Animal Husbandry Department of the erstwhile Government of Andhra Pradesh on 07.12.1972.

14. All the aforesaid actions have been taken over prior to commencement of the Forest (Conservation) Act, 1980, in respect of the land which was not declared as reserved forest either under the Hyderabad Forest Act, 1355 Fasli or under Section 15 of the Telangana Forest Act, 1967. It is pertinent to mention that the erstwhile Government of Andhra Pradesh had sent a proposal to the Government of India, Ministry of Environment and forests seeking prior approval under Section 2 of the Forest (Conservation) Act, 1980 in respect of the land measuring 3.10 hectares of forest land in Sirchelma reserved forest block. Thereupon, the State Government was informed as follows:-

Kind attention is invited to the reference cited. In this connection kind reference is invited to the clarification issued by Government of India through their Letter No.2-1/82/FRY (cons) dated 26.3.1982. According to this clarification, in cases where specific orders were issued for dis-reservation or diversion of Forest areas, in connection with any project by the State Government prior to 25-10-1980 need not be referred to the Central Government for permission under the Forest Conservation Act, 1980.

The case on hand pertains to the formation of the road by the Zilla Parishad, Adilabad through the Reserve Forest Sirchelama in Adilabad District. Necessary permission was granted to the Zilla Parishad, Adilabad by the Divisional Forest Officer, Adilabad through his Proceedings No.9789/A.10/73, dated 3-1-1974 for clearance of forest growth and to form the Road under the powers delegated to him by the State Government. "It is obvious that formation of Road falls under the clause of minor, or major depending upon the outlay involved. Thus in the case on hand, the permission granted by the Divisional forest Officer for formation of the Road under reference come, under the class of projects where specific orders issued by the State Government prior to Forest (Conservation) Act, 1980 and as such it does not require permission of Government of India at this stage in the light of the Government of India clarification referred above.

However the matter was taken to the notice of the Government of India seeking permission losing sight of the

clarification referred to above. Even at this stage, it may be considered appropriate to request the Government of India to drop further action in this case in the light of the said clarification."

Therefore, there appears no violation of any of the provisions of the Forest (Conservation) Act, 1980.

15. The respondent Nos.13 and 15 are *bona fide* purchasers for a valuable consideration in pursuance of sale deeds executed in their favour. The area in possession of the respondent Nos.13 and 15 has been declared to be Special Economic Zone (SEZ). The respondents have developed the land for the purposes of Information Technology Park. The petitioners have questioned the action of the State Government in handing over the area to the defence authorities for missile testing in the year 1966 and for establishment of sheep breeding farm in the year 1971. The petitioners have also assailed the action of allotment of land to APIIC in the year 2000. Therefore, the challenge of the aforesaid allotments suffers from delay and laches, on account

of the petitioners having not been diligent even in prosecuting the writ petition. Therefore, at this point of time, no relief in this public interest litigation can be granted to the petitioners.

16. The writ petition fails and is accordingly dismissed.

Miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

**SD/- K. SREERAMA MURTHY
ASSISTANT REGISTRAR**


//TRUE COPY//

SECTION OFFICER

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(For His Lordship's Kind Perusal)**

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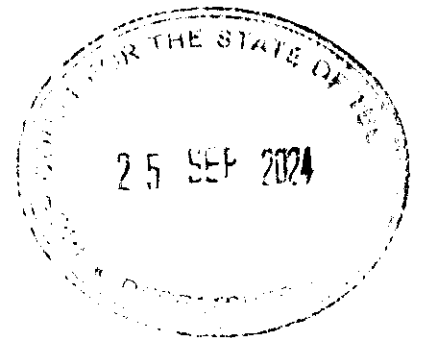
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HIGH COURT

DATED:02/05/2024

ORDER

WP.No.6725 of 2009



DISMISSING THE WRIT PETITION
WITHOUT COSTS

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VW
12/9/24