

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE
&
HON'BLE SRI JUSTICE NINALA JAYASURYA
WRIT APPEAL Nos.221 & 222 of 2023
(Through physical mode)

Writ Appeal No.221 of 2023

Between:-

S.Prabhakar Naidu		Appellant
And		
The State of Andhra Pradesh, represented by its Principal Secretary (Forest Department & 8 others		Respondents

Writ Appeal No.222 of 2023

Between:-

S.Venkatarama Naidu & another		Appellants
And		
The State of Andhra Pradesh, represented by its Principal Secretary (Forest Department & 8 others		Respondents

Counsel for the Appellants	:	Mrs.K.Pallavi
Counsel for the Respondents	:	Government Pleader for Forest Government Pleader for Home Mr.V.V.Satish Mrs.Umadevi Manchala

COMMON JUDGMENT Dt:13.02.2023

(Per Hon'ble Sri Justice Ninala Jayasurya)

These two Writ Appeals arise out of a Common Order dated 20.01.2023 passed by the Learned Single Judge dismissing Writ Petition Nos.2801 & 2808 of 2022.

2. For the sake of convenience, parties are referred to as arrayed in the Writ Petitions.

3. The petitioners filed the above Writ Petitions seeking *inter alia*, to declare the action of the respondents 1 to 5 in not taking any action on the 6th respondent in respect of illegal cutting and transportation of Red Sander Trees in the writ petitioners' land in Sy.Nos.272/4 & 272/6 of Kondrajupalli Village of Thottambedu Mandal, Chittoor District despite their representation dated 11.01.2022 as illegal, arbitrary etc., and for a consequential direction to the said respondents to immediately take action on the petitioner's representation by taking stringent action against the 6th respondent.

4. In the Affidavits filed in support of the Writ Petitions, it was *inter alia* pleaded that one S.Vengama Naidu was the absolute owner and possessor of the land in an extent of Ac.8.73 cents in Sy.No.272 of Kondrajupalli Village, Thottambedu Mandal, Chittoor District. The said property was divided and he gave Ac.0.17 cents & Ac.2.74 cents each to his three daughters and three sons respectively. It is their case that there are 19 Red Sander Trees in the land of the petitioner in W.P.No.2801 of 2022 in Sy.No.272/4 and 2 Red Sander Trees in Sy.No.272/6 of the petitioner in W.P.No.2808 of 2022 and that the 6th respondent cut the Red Sander Trees without their being any right, much

less, with the permission of the concerned authorities. It is their further case that when the 6th respondent was questioned about the said illegal activities, he furnished a copy of the Agreement stated to have been entered into with the cousin brother of the writ petitioner in W.P.No.2801 of 2022 i.e., one S.Babu Naidu, wherein the survey number is mentioned as '272' and there is no sub-division, that even the permission *vide* Proceedings dated 23.06.2021 stated to have been issued by the 5th respondent is in respect of the trees allegedly in existence in Sy.No.272/2, which are not in existence and in fact, the said permission is not in respect of other survey numbers, specifically not in respect of the petitioners' land in Sy.Nos.272/4 & 272/6. It is further stated that as the 6th respondent is acting illegally and without any authority, a legal notice dated 11.01.2022 was got issued to the respondents 2 to 6, but as there was no action by the officials, the petitioners are constrained to file the Writ Petitions.

5. The Learned Single Judge after considering the matter with reference to the contentions advanced and the material available on record, by a detailed order dismissed the said Writ Petitions. Aggrieved by the same, the unsuccessful writ petitioners filed the present appeals.

6. The learned counsel for the petitioners/appellants contends that the order under challenge is unsustainable and liable to be set aside, as the Learned Judge failed to appreciate that the 6th respondent played fraud on the respondent authorities as also on the Court. She contends that the Agreement on the basis of which the 6th respondent obtained permission from the authorities is dated 05.05.2013, but whereas the Stamp Paper is dated

01.06.2013. In such circumstances, no credence can be attached to the said Agreement and the Learned Single Judge overlooked the said crucial aspect. Even otherwise, the learned counsel submits that the alleged Agreement was entered into with reference to Sy.No.272 only and the felling of trees in Sy.Nos.272/4 & 272/6 is therefore impermissible. The learned counsel submits that no right accrues to the 6th respondent on the basis of the said Agreement, much less, in respect of the trees in Sy.Nos.272/4 & 272/6 of Kondrajupalli Village and the 6th respondent in collusion with the official respondents obtained permission for transportation of Red Sander Trees, which belong to the petitioners. She also submits that the Learned Judge went wrong in not appreciating the documents filed on behalf of the appellants/writ petitioners. Making the said submissions, the learned counsel prays for allowing the appeals.

7. The learned counsel appearing for the respective respondents addressed arguments to sustain the orders passed by the Learned Single Judge. They submit that the learned Single Judge after perusal of the material on record, passed a well considered reasoned order and the same warrants no interference by this Court. They contend that the writ appeals are devoid of merits and prays for dismissal of the same.

8. This Court has considered the submissions made and perused the material on record. On appreciating the submissions made by the learned counsel for the appellants/petitioners and the relief sought for in the writ petitions, their grievance is that the 6th respondent under the guise of obtaining

permission from the 4th respondent *vide* proceedings dated 23.06.2021 fell some Red Sander Trees (19+2) existing in their lands and transported them to the storing point. As seen from the said permission, the Chief Conservator of Forests, Wild Life Management/the 3rd respondent accorded technical approval in favour of the 6th respondent for felling and dressing of 21 Nos. Red Sander Trees in Sy.No.272/2 of Kondrajupalli village. The said approval, *inter alia*, was based on the certificate confirming location of trees by the Revenue officials, joint inspection by the Divisional Forest Officer (Wild Life) Division, Chittoor and Divisional Forest Officer, Flying Squad Division, Tirupathi on 07.06.2018. In such circumstances, the contention that no trees exist at all in Sy.No.272/2 merits no appreciation. Even, the Learned Single Judge considering the rival contentions and on perusal of the material recorded categorical conclusions in this regard to the effect that the permission to the 6th respondent to fell 21 Red Sander Trees stood in Sy.No.272/2 is as per the survey and inspection reports submitted by the Tahsildar and the Sub-Collector, Tirupati to the Divisional Forest Officer, Chittoor East (WL) Division. The Learned Single Judge also noted that the Tahsildar in his report stated that 26 Red Sander Trees are existing in the Patta lands of Mr.S.Babu Naidu and he has not noticed the existence of Red Sander Trees in Sy.Nos.272/1, 3, 4, 5 & 6, except in Sy.No.272/2. Observing that though the said report is disputed by the writ petitioners by way of reply and certain documents were filed showing the land in the name of the petitioners, the Learned Single Judge categorically held that none of the documents filed in support of the claim of the writ petitioners would show that

19 Red Sander Trees are situated in the land of an extent of Ac.2.74 cents in Sy.No.272/4 and 2 Red Sander Trees exist in the land of an extent of Ac.2.74 cents in Sy.No.272/6.

9. The Learned Judge further opined that the writ petitioners cannot take advantage to say that no Red Sander Trees are situated in the land of an extent of Ac.2.74 cents in Sy.No.272/2 as the agreement in question is lacking in details in the light of survey and inspection reports of Revenue and Forest officials. As opined by the Learned Single Judge, the Divisional Forest Officer i.e., the 5th respondent granted permission for felling of the Red Sander Trees after elaborately considering the reports submitted by the Revenue & Forest officials and this Court see no good reasons to take a different view. As observed by the Learned Single Judge, against the proceedings granting permission to the 6th respondent, the petitioners have not preferred appeals, thus the permission dated 23.06.2021 remained unchallenged. Though much emphasis is laid to impress upon this Court with reference to date of purchase of stamp paper and the date of entering into agreement mentioned above to contend that fraud is played, in the absence of challenge to the proceedings dated 23.06.2021 granting permission to the 6th respondent, the same merits no appreciation. The contentions advanced by the learned counsel for the appellants/petitioners are, therefore, rejected.

10. The Learned Single Judge recorded findings with reference to the material on record, assigned reasons which are sound and the same does not suffer from any material irregularity warranting interference by this Court.

11. In view of the aforesaid conclusions, this Court finds no reason to interfere with the order passed by the learned Single Judge. Accordingly, the Writ Appeals are dismissed. There shall be no order as to costs. As a sequel, all pending applications shall stand closed.

PRASHANT KUMAR MISHRA, CJ

NINALA JAYASURYA, J

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