

ITEM NO.3

COURT NO.5

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 109/2008

WILDLIFE FIRST & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

IA NO.35782/2019- APPLN. FOR MODIFICATION

Date : 28-02-2019 This petition was called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE M.R. SHAH

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UPON hearing the counsel the Court made the following

O R D E R

We have heard Mr. Tushar Mehta, learned Solicitor General,

Mr. A.N.S. Nadkarni, learned Additional Solicitor General, Mr. Kapil Sibal, learned Senior Counsel, Dr. Abhishek Manu Singhvi, learned Senior Counsel, Mr. Shyam Divan, learned Senior counsel, Mr. Vivek Tankha, learned Senior Counsel and Mr. R.K. Raizada, learned Senior counsel appearing for the parties at some length.

It was pointed out that the State Governments have filed their data including how many claims have been rejected and the eviction orders that have been passed but they have not stated the procedure adopted for rejection orders/claims of the Tribals. It has not been placed on record as to who has rejected the claims and under which provision of law the eviction has to be made and who is the competent authority to pass such orders.

It was also submitted that in most of the matters Tribals have not been served with the orders of rejection orders of their claims and it is also not clear whether the three tier Monitoring Committee constituted under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 have supervised all these aspects.

Let the State Government also clarify what is the process to be followed for eviction after rejection orders have been passed.

In the facts and circumstances of the case, we direct the Chief Secretaries of various State Governments to file detailed affidavits covering all the aforesaid aspects and also place on record the rejection orders and the details of the procedure followed for settlement of claims and what are the main ground on

which the claims have been rejected. It may also be stated that whether the Tribals were given opportunity to adduce evidence and, if yes, to what extent and whether reasoned orders have been passed regarding rejection of the claims.

It was submitted that at the present juncture there is likelihood of traditional Tribals being affected whose claims have been rejected. At the same time the question which is also of significance and which cannot be ignored and overlooked is that in the guise of and Other Traditional Forest Dwellers (OTFDs), the land is not occupied by mighty people, industrialists and other persons who are not belonging to the aforesaid category. Let the State Governments also point out the category wise details of such incumbents who have been occupying these areas belonging to Scheduled Tribe category and OTFD category and such persons who cannot be treated as Tribals. Let details be furnished in their affidavits to be filed by the Chief Secretaries. However, till we examine all aforesaid aspects, we keep our order dated 13.02.2019 on hold so far as eviction is concerned.

Let what kind of orders have been passed be placed on record. It was pointed out by Mr. Shyam Divan, learned Senior Counsel that the State Governments, subject to the decision of this Court on various aspects, should also place on record the course of action with respect to the claims which have not been found to be genuine, what they are going to ultimately undertake and the time frame.

In the meantime, the Forest Survey of India has to make a satellite survey and place on record the encroachment positions as far as possible in this Court before the next date of hearing as

directed in order dated 13.02.2019. Mr. Tushar Mehta, learned Solicitor General has undertaken to inform the Forest Survey of India to complete the Satellite survey.

List on 24.07.2019.

(ASHA SUNDRIYAL)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER