

# Green signal to Forest Rights Act by State High Court

Orissa High Court has vacated its interim stay order passed on 23<sup>rd</sup> July 2008 in a writ petition filed by Society of Retired Forest Officers, Orissa

Here it needs to be mentioned that the Society of Retired Forest Officers, (SoRFO) Orissa filed a Writ Application on 30<sup>th</sup> March 2008 urging the court to quash the Forest Rights Act, 2006.

On 1<sup>st</sup> July 2008 SoRFO filed a Misc. Case No. 4540 praying the court to issue interim stay on the Act which was rejected by the court

After this the SoRFO filed another Misc. case No. 10825 on 27<sup>th</sup> July 2008, where State High Court passed interim order not to issue patta and alienate any forestland or fell any tree particularly from National Parks, Sanctuaries and Biosphere Reserves until further order.

This interim order created confusion at the implementation level and the process of identification of claims was affected. This fact was pointed by the tribal groups who had intervened in the matter. In response to this the court issued a clarification on the interim order on 2<sup>nd</sup> Sep 2008 with a modification that the interim order has put a stay only on issuing of titles but not on the process of recognition of rights. This was followed by counters by the

tribal groups and the government. Later intervention petitions were filed by tribal groups and the government of Orissa to vacate the interim order. The vacation petitions were heard by the court on 16<sup>th</sup> July where the court was appraised of vacation of stay order in AP High Court. After the arguments the court reserved the order. Finally the

## Timeline of Court Hearing

30 <sup>th</sup> March 08:	Writ Petition Filed by SoRFO
1 <sup>st</sup> July 08:	1 <sup>st</sup> Misc. case filed by Writ Petitioner Court rejected the plea and fixed 22 <sup>nd</sup> July 08 for hearing on admissibility of WP
23 <sup>rd</sup> July 08:	Court accepted the intervention applications of tribals in the case 2 <sup>nd</sup> Misc. case filed by SoRFO which requested the court to pass interim stay as passed by Madras High Court Court accepted the plea and passed interim order directing the State not to issue patta under Forest Rights Act
2 <sup>nd</sup> Sept. 08:	Tribal groups filed counter affidavit State and Centre failed to file the counter affidavit Tribal groups put forth the misinterpretation of 23 <sup>rd</sup> July interim order and requested court for clarification of the order Court accepted the plea and issued a clarification on interim order by saying that the process of identification would continue
23 <sup>rd</sup> Sept. 08:	Counter affidavit filed by MoTA, GoI and Badal Nayak Govt. of Orissa asked more time for submission of counter Case adjourned to a date after Puja holidays

## Timeline of Court Hearing

20 <sup>th</sup> Nov. 08:	Tribal groups filed memorandum for listing of case
18 <sup>th</sup> Dec 08:	Case listed but could not come up due to left over matters
19 <sup>th</sup> Dec 08:	Govt. Orissa filed its counter affidavit Case listed for 12 <sup>th</sup> Jan 2009
12 <sup>th</sup> Jan 09:	Petitioner lawyer file rejoinder to the counters of tribal groups and sought more time to file rejoinder to counter of GoO Matter listed for hearing on 9 <sup>th</sup> Feb 09
10 <sup>th</sup> Feb 09:	Petitioner Lawyer sought more time to file rejoinder New intervention application filed and court accepted it and listed further hearing on 2 <sup>nd</sup> Mar 09
5 <sup>th</sup> Mar 09:	ST & SC Welfare Department, GoO filed a Misc. case for vacation of interim order Case listed for further hearing on 16 <sup>th</sup> Mar 09
18 <sup>th</sup> Mar 09:	Hearing held on the Misc. case filed by ST & SC Deptt. Writ Petitioner opposed by saying that he is not served a copy. Court listed the matter for hearing on first week of May
2 <sup>nd</sup> May 09:	One of the opposite parties Mr. Badal Nayak filed a Misc. case for vacation of interim stay order
1 <sup>st</sup> July 09:	Writ Petitioner requested the Hon'ble court to list this case after Supreme Court hearing, which was scheduled to be held on 4 <sup>th</sup> August 09 Court agreed and fixed next hearing on 17 <sup>th</sup> August 09
10 <sup>th</sup> July 09:	State Government filed memo requesting the court for hearing on the vacation of interim order
14 <sup>th</sup> July 09:	Advocate General of the State appeared before the court and drew attention of the court towards the situation of conflict and unrest in the State and requested for hearing On vacation petition. Court accepted the plea and fixed 16 <sup>th</sup> July 09 for hearing
16 <sup>th</sup> July 09:	Hon'ble Judges heard the argument on vacation from the State and Central Govt and other opposite parties and also went through the AP High Court order Writ Petitioner opposed the vacation petition and requested the court not to give any order as the matter is going to be heard at Supreme Court on 4 <sup>th</sup> August 09 Court reserved the order
12 <sup>th</sup> August 09:	<b>Court vacated the interim order and allowed the State to issue certificate of titles as per the Forest Rights Act with a condition that titles shall be subject to the final decision on the main Writ Petition.</b>

court passed order on 12<sup>th</sup> Aug vacating the stay order and permitting the State Government to issue titles.

According to a senior official of the State, Government is planning to distribute title deeds from 15<sup>th</sup> August 2009. As per the statistics given by the ST & SC Development Department as on 8<sup>th</sup> June 2009, Gram Sabha has received 2,88,348 individual claims and 1432 community claims of which 31871 individuals claims & 51 Community claims have been finalized by District Level Committee in 26 districts and rest of the claims are in the process of field verification.

The latest monthly progress report released by Ministry of Tribal Affairs on Status of Forest Rights Implementation mentions that at the end of 31<sup>st</sup> July, the District Level Committee has approved around 36892 number of claims of which 36792 is individual claims and 100 is community claims. However, this order of the State High Court is going to benefit more than 1.5 crore population in the State, whose land and rights have been taken away by the colonial government in early 19<sup>th</sup> century.



**Reference web links for more details:**

- ☞ **Court Orders:** <http://www.fra.org.in/Court.htm>
- ☞ **Claim Details:** [http://www.fra.org.in/fra\\_status.htm](http://www.fra.org.in/fra_status.htm)
- ☞ <http://forestrightsact.com/index.php/Court-Cases/Court-Cases/Court-Cases-Against-the-Forest-Rights-Act.html>

**If you need more information, Pls. contact us,**



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**Or, visit the web sites**

- ☞ [www.fra.org.in](http://www.fra.org.in)
- ☞ [www.forestrightsact.com](http://www.forestrightsact.com)