

UNION OF INDIA

A

v.

AKHILA BHARATHIYA ADIVASI VIKASA PARISHAD & ORS.

(Transfer Petition (C) No.423 of 2012)

NOVEMBER 13, 2017

B

[DIPAK MISRA, CJI, A. M. KHANWILKAR AND
DR. D. Y. CHANDRACHUD, JJ.]

Constitution of India – Arts.139A and 32 – Transfer Petition – Petitioner sought transfer of a writ petition pending before the High Court of Judicature of Andhra Pradesh to Supreme Court – Writ petition before High Court assails the constitutional validity of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, (Act No.2 of 2007) – Held: Since a Substantive writ petition u/Art.32 is pending before the Supreme Court where the vires of the same central statute is in issue, prayer for transfer accepted – Writ petition before High Court transferred to Supreme Court and registry directed to take necessary steps expeditiously.

C

D

CIVIL ORIGINAL JURISDICTION: Transfer Petition (Civil) No. 423 of 2012

E

Under Article 139A of the Constitution of India.

Ms. Pinky Anand, ASG, A. K. Shrivastav, Rishabh Jain, Hemant Arya and Ms. Pallavi Chopra, Advs. for the Petitioner.

The following Order of the Court was delivered:

F

ORDER

1. The Union of India has sought a transfer of Writ Petition (Civil) No. 15798 of 2009 pending before the High Court of Judicature of Andhra Pradesh at Hyderabad to this Court under Article 139(A) of the Constitution.

G

2. The Writ Petition before the High Court assails the constitutional validity of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, (Act No. 2 of 2007).

H

A 3. A Writ Petition under Article 32 of the Constitution – Writ Petition (Civil) No. 50 of 2008, challenging the vires of the Act is pending before the Court.

B 4. Notice was issued in this proceeding on 13 January 2014 and a stay of further proceedings before the High Court was granted. The office report indicates that service of notice is complete. No appearance has been entered on behalf of the respondents.

C 5. Since a substantive Writ Petition under Article 32 is pending before this Court where the vires of the same central statute is in issue, we accede to the prayer for transfer of the proceedings pending before the High Court to this Court.

D 6. Consequently, Writ Petition (Civil) No. 15798 of 2009 pending before the High Court of Judicature of Andhra Pradesh at Hyderabad is transferred to this Court. The registry is directed to take necessary steps to ensure that the papers and proceedings are transmitted to this Court expeditiously.

7. The Transfer Petition is accordingly disposed of.