

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)

SATURDAY, THE FOURTH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HON'BLE SRI JUSTICE B. KRISHNA MOHAN



W.P (SR) NO: 20742 OF 2022

Between:

1. Smt. Appikatla Varalakshmi, W/o. Sri A. Somaiah, Aged about 60 Years, Occ: Agriculture, R/o. Nakkavanidari, Lingareddygudem, Koduru Mandal, Krishna, Andhra Pradesh.
 2. Sri M. Chandra Rao, S/o. M. Venkateswaralu, Aged about 62 Years, Occ: Farmer-Business,
 3. Smt. M. Jaya Lakshmi, W/o. Sri M. Chandra Rao, Aged about 60 Years, Occ: Farmer,
 4. Sri M. Kesava Rao, S/o. Sri M. Chandra Rao, Aged about 40 Years, Occ: Farmer Business,
- (Petitioners 2 to 4 Resident of Krishnapuram Village, Koduru Mandal, Krishna District, Andhra Pradesh)

...PETITIONERS

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary Fisheries Department, Secretariat, Velagapudi, Amaravati, Andhra Pradesh.
 2. The District Collector-- Krishna District, Krishna District, Andhra Pradesh.
 3. The Joint Director, Fisheries Department, Avanigadda, Krishna District, A.P.
 4. The Assistant Director, Fisheries Department, Machilipatnam, Krishna District.
 5. The Tahsildhar, Koduru Mandal, Krishna District, Andhra Pradesh.
 6. Sri Avula Basavaiah, S/o. Ragahavaiah, Aged about 60 Years, Occ: Cultivation,
 7. Smt. M. Rama Devi, W/o. M. Ramu, Aged about 40 Years, Occ: House wife,
- (Respondent No.6 and 7 are resident of Ismailbegpeta, Koduru Village, and Mandal, Krishna District, Andhra Pradesh)

...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 an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent NO.2 to 5 in threatening to demolish the Fish Tanks in extent of Ac.2.59 Cents belonging to petitioner No.1 in Sy. No.1852/4 and Fish Tank in extent of Ac.16-36 Cents belonging to Petitioner No.2 to 4 in Sy. No.491/1, 2, 492, 428, and 511/A of Ramkrishnapuram Village, Koduru Mandal, Krishna District without issuing any notice or issuing any proceedings or considering prior permissions and proceedings of the Respondents departments as illegal, arbitrary, unjust and discriminatory and contrary to the principles of natural justice, violative of Fundamental Rights guaranteed under Article 14, 19, 21 and 300-A of the Constitution of India and Consequently direct the respondent No.2 to 5 not to demolish the same.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the Respondents not to demolish the Fish Tanks in extent of Ac.2.59 Cents belonging to petitioner No.1 in Sy.No.1852/4 and Fish Tank in extent of Ac.16-36 Cents belonging to petitioner No.2 to 4 in Sy. No.491/1, 2, 492, 428 and 511/A of Ramkrishnapuram Village, Koduru Mandal, Krishna District, pending disposal of the above Writ petition.

The petition coming on for hearing, and upon perusing the affidavit and Petition, and upon hearing the arguments of Sri Srinivas Basava, Advocate for petitioners and of the Govt. Pleader for Fisheries representing the respondents 1, 3 & 4, the Court made the following

ORDER :-

Notice before Admission.

Heard the learned Counsel for the petitioners and the learned Government Pleader for the Fisheries appearing for the respondents No.1, 3 and 4. The learned Government Pleader for Revenue name may be printed for the respondents No.2 and 5.

The learned Counsel for the petitioners is permitted to take out personal notice to the respondents No.6 and 7 and the proof of service shall be filed within three (3) weeks from today.

This Writ Petition is filed questioning the action of the respondents No.2 to 5 in threatening to demolish the fish tanks in an extent of Ac.2.59 cents belonging to the 1st petitioner in Sy.No.1852/4 and fish tank in an extent of Ac.16.36 cents belonging to the petitioners No.2 to 4 in Sy.No.491/1, 2, 492, 428 and 511/A of Ramakrishnapuram village, Koduru Mandal, Krishna District without following the due process of law.

The learned counsel for the petitioners submits that the 1st petitioner is having Ac.2.59 cents of land with fish tank in Sy.No.1852/4 of Ramakrishnapuram village, Koduru Mandal, Krishna District and the petitioners No.2 to 4 are having fish tank in an extent of Ac.16.36 cents situated in Sy.No.491/1, 2, 492, 428 and 511/A of Ramakrishnapuram, Koduru Mandal, Krishna District. He further submits that the petitioners are owning the above said land with fish tanks as private property, for which the necessary pattadar passbooks were also issued by making necessary entries in the revenue records also. The petitioners have been in enjoyment and cultivation of the same for their livelihood from the date of their respective purchases vide registered sale deeds. He further contends that the said lands were converted into fish tanks long back, for which the authorities have issued

necessary certificate of registration of Aqua Culture Form vide Rc.No.1764/A3/2015, dated 08.10.2015, which was issued by the Deputy Director of Fisheries Department. Whereas, the respondents No.6 and 7 are also having fish tank as adjacent land owners, but due to personal animosity and jealousies, they started giving complaints against the petitioners. Consequently, the respondent officials once visited the petitioners fish tanks and also issued notice on 20.09.2020. Having satisfied with the verification and explanation given by the petitioners, they did not proceed further. Having not satisfied with the action taken by the authorities, the respondent No.6 also initiated an action in OS.No.90 of 2017 on the file of Principal Junior civil Judge, Avanigadda seeking grant of permanent injunction against the petitioners No.2 and 5 herein which is pending for adjudication. Since the said village is suitable for Aqua Culture which is situated one K.M. away from the Bay of Bengal Sea, the petitioners also applied for Prawn culture and Farming with Marine Products Export Development Authority in the year 2020 itself, but it is awaited for necessary permission/ approval and sanction. While so, the 7th respondent at the instigation of the 6th respondent is now making a complaint against the petitioners in Spandana programme held by the 2nd respondent. Consequently, the respondents officials visited the petitioners' lands and fish tanks on 03.06.2022. Specifically the respondents No.3 and 4 along with the other officials visited their lands and tanks and threatened that they would be demolished. Though fish tanks are in existence for a long time in the possession of the petitioners herein, they are being threatened with dispossession and demolition of the same. If it is allowed to do so, the petitioners would suffer hardship and great loss. The authorities are now acting without verifying the facts and the documents of the petitioners pertaining to the subject lands and fish tanks.

The learned counsel for the petitioners further submits that in case of any breach or violations on the part of the petitioners with regard to the maintenance of the subject lands and their fish tanks, it is open for the respondents to issue a proper notice under law, for which the necessary explanation would be submitted by the petitioners also. But without recouring to any of those procedural formalities, the official respondents are trying to interfere with the peaceful possession and enjoyment of the petitioners' fish tanks situated in the subject lands.

The learned Assistant Government Pleader appearing for the Fisheries Department submits that it appears to be that there is a private lis pending between the petitioners and the unofficial respondents in which the official respondents are being dragged for the purpose of this case. However, he seeks time for filing a detailed counter on behalf of the official respondents.

Having regard to the above said facts and circumstances, for the purpose of meeting the balance of convenience there shall be an interim order to the following effect:

Status quo as on today shall be maintained by the parties with reference to the subject lands and fish tanks situated in an extent of Ac.2.59 cents of the 1st petitioner in Sy.No.1852/4 and in an extent of Ac.16.36 cents of the petitioners No.2 to 4 in Sy.No.491/1, 2, 492, 428 and 511/A of Ramakrishnapuram village, Koduru Mandal, Krishna District pending further orders.

Post on 18.07.2022.

In the meanwhile, the official respondents shall file their counters.

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for ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary Fisheries Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravatim Andhra Pradesh.
2. The District Collector-- Krishna District, Krishna District, Andhra Pradesh.
3. The Joint Director, Fisheries Department, Avanigadda, Krishna District.
4. The Assistant Director, Fisheries Department, Machilipatnam, Krishna District.
5. The Tahsildhar, Koduru Mandal, Krishna District, Andhra Pradesh.
6. Sri Avula Basavaiah, S/o. Ragahavaiah, Aged about 60 Years, Occ: Cultivation, resident of Ismailbegpeta, Koduru Village, and Mandal, Krishna District, Andhra Pradesh.
7. Smt. M. Rama Devi, W/o. M. Ramu, Aged about 40 Years, Occ: House wife, resident of Ismailbegpeta, Koduru Village, and Mandal, Krishna District, Andhra Pradesh.
8. One CC to Sri Srinivas Basava, Advocate (OPUC)
9. Two CCs to GP for Fisheries, High Court of Andhra Pradesh. (OUT)
10. Two CCs to GP for Revenue, High Court of Andhra Pradesh. (OUT)
11. Two C.D. Copies.

Cnr

HIGH COURT

BKM,J

DATED:04/06/2022

ORDER



WP(SR).No.20742 of 2022

INTERIM DIRECTION