

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI
HON'BLE Mr. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE
&
HON'BLE Mr. JUSTICE NINALA JAYASURYA

WRIT APPEAL No.429 of 2023

Budagatla Meghana, W/o. Budagatla Ramesh Naidu, aged about
28 years, and others

... Appellants

Versus

The State of Andhra Pradesh, rep. By its Principal Secretary,
Fisheries Department, Secretariat, Velagapudi, Guntur District,
and others

... Respondents

JUDGMENT (ORAL)

Dt:24.04.2023

(Prashant Kumar Mishra, CJ)

The unsuccessful petitioners have preferred this intra-court appeal under clause 15 of the Letters Patent, challenging the order dated 28.02.2023 passed by the learned single Judge disposing of W.P.No.25163 of 2021 directing the 3rd respondent, District Collector, Srikakulam District and the 4th respondent, Tahsildar, Srikakulam Mandal and District, to remove the fish tanks constructed in the un-surveyed lands of Nagavali riverbed and Langulya riverbank as per law by giving opportunity to the petitioners, as expeditiously as possible, not later than four months from the date of receipt of the order and submit action taken report to the Registrar (Judicial) of this Court, with further

direction to initiate contempt proceedings against the said respondents if the said report is not submitted.

2. The petitioners are in occupation of un-surveyed lands of Jalaripeta village, Srikakulam Rural Mandal, Srikakulam District and constructed fish tanks thereon for pisciculture while their application for assignment of the said land is pending before the 3rd respondent. It is the stand of the petitioners that they are in possession of the lands for several decades and their request for assignment is pending and, in the meanwhile, respondents 2 to 4 along with police personnel are trying to demolish the fish tanks, compelling them to prefer W.P.No.21420 of 2021, which was disposed of directing the respondents-authorities not to interfere with the activities of the petitioners or take up demolition of fish tanks developed by the petitioners except in accordance with law and after granting adequate opportunity to the petitioners.

3. In W.P.No.25163 of 2021, learned single Judge, by docket order dated 04.01.2022, directed the 3rd respondent-District Collector to enquire into the matter and file detailed counter-affidavit, consequent to which the 3rd respondent filed counter-affidavit stating that due to construction of fish tanks across the riverbed, free flow of river water is being obstructed, river water is entering into the upland villages of Jalaripeta and Kallepalli

Gram Panchayats, Pedda Gangallavanipeta and are being inundated due to flood waters. Following the final order passed in W.P.No.21420 of 2021, the 4th respondent-Tahsildar issued notice in Form-6 and Form-7 to all the encroachers as per the provisions of the Andhra Pradesh Land Encroachment Act, 1905 for removal of unauthorized fish tanks in un-surveyed Government land in the Nagavali river bed and Langulya River bank near the sea coast of Bay of Bengal at Jalaripeta and Mofusbandar villages of Srikakulam Rural Mandal & District. It is further stated in the counter-affidavit that the 4th respondent issued Form-7 notice under the 1905 Act on 23.08.2021 through the V.R.O., Mofusbandar and in continuation thereof, Form-6 notice was issued to all the encroachers by giving a month's time to vacate the encroachments, failing which action would be taken to evict the encroachers as per the provisions of the 1905 Act. The respondents, thereafter, on 27.10.2021, demolished about 12 tanks and continued the demolition on 28.10.2021, which was stopped when interim order was passed in favour of the petitioners on 29.10.2021 in W.P.No.25163 of 2021.

4. Learned single Judge has found that, acting upon the representation submitted by some residents of Kallepalli Gram Panchayat and 48 others of the said Gram Panchayat, action was

initiated for removal of encroachments and, thereafter, Fisheries Development Officer, Srikakulam reported that they have not granted any permission or sanction to the encroachers for construction of shrimp-rearing ponds to grow any aquaculture in the said tanks. The encroachers were instructed to remove the unauthorized fish tanks and having found that their action of constructing fish tanks is unauthorized, the same were said to be removed on 27.10. 2021 and 28.10.2021.

5. It appears, pursuant to the order passed by this Court in W.P.No.21420 of 2021, steps have been taken in accordance with the provisions of the 1905 Act for removal of encroachment and in furtherance thereof, Form-6 and Form-7 notices were issued under Sections 6 and 7 of the 1905 Act. Therefore, the present is not a case where the encroachments made by the petitioners are sought to be removed without following due process of law. It is also to be borne in mind that due to the fish tanks developed by the petitioners, free flow of river water is prevented in Nagavali riverbed and Langulya riverbank causing inundation. It was also observed by the learned single Judge that due to the inaction of the authorities, petitioners are continuing encroachments on the Government land and developing fish tanks and since, earlier, action was taken without

following due process of law, it unnecessarily provided elbow room to the Court to issue directions in the previous writ petition.

6. It is, thus, manifest that the official respondents were only demonstrating their intention to remove encroachments, but, actually on the spot, they were doing nothing and whatever they were undertaking, the same was without following due process of law providing space for interference. In such a situation, learned single Judge, while directing the respondents to remove the fish tanks constructed in the un-surveyed lands of Nagavali Langulya riverbed after providing opportunity of hearing to the petitioners, also observed that if the same is not completed within four months, contempt proceedings shall be initiated against 3rd and 4th respondents.

7. In our considered view, no exception could be taken to the directions issued by the learned single Judge, particularly, when huge extent of Government land is being encroached by the petitioners and the authorities are doing mere lip service without taking any effective steps on the subject. Since the petitioners have no semblance of right, title or interest to continue to occupy the lands in question, denial of relief to them and, at the same time, issuing directions to the 3rd and 4th respondents to

remove the encroachments in accordance with law, is fully justified and no interference is called for.

8. For the foregoing reasons, writ appeal is dismissed. No order as to costs. Pending miscellaneous applications, if any, shall stand closed.

Sd/-

PRASHANT KUMAR MISHRA, CJ

MRR

Sd/-

NINALA JAYASURYA, J