

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NO. 21663 of 2015

Between:

T V Nanchariah S/o late Reddy
R/o Chinnapuram village, Machilipatnam
Krishna district

.... Petitioner

And

The State of A P
Rep by its Prl Secretary (Revenue Department)
A.P. Secretariat, Hyderabad and others

.... Respondents

DATE OF JUDGMENT PRONOUNCED : 1.9.2015

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SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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1. Whether Reporters of Local Newspapers may : / No
Be allowed to see the Judgments ? :

2. Whether the copies of judgment may be marked : / No
To Law Reporters/Journals :

3. Whether Their Lordship wish to see the fair : / No
Copy of the Judgment ? :

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 21663 of 2015

ORAL ORDER:

This writ petition is filed seeking the following prayer;

“.....mandamus declaring the action of respondent Nos. 4, 5 and 6 interfere with our peaceful possession and enjoyment of fish tanks in an extent of Ac.20.00 situated in R S No. 103 and 106 at Chinnapuram village, Machilipatnam mandal, Krishna district as highly illegal, arbitrary and contrary to law and clear violation of principles of natural justice and clear violation of Articles 14, 21 and 300 A of the Constitution of India and consequently to direct the respondent Nos. 4, 5 and 6 not to interfere with our peaceful possession and enjoyment of fish tanks situated in R S No. 103 and 106 situated in Chinnapuram village, Machilipatnam, Krishna district”

2. Petitioner who is President of Krishna Zilla Harijana Girijana Abudaya Samkeshama Sangam (for short Sangam), earlier instituted O S No. 90 of 2001 on the file of the First Additional Junior Civil Judge, Machilipatnam, Krishna district praying to grant permanent injunction restraining defendants from interfering with the peaceful possession and enjoyment of the schedule property, which is the subject property in this writ petition.

3. On consideration of the rival contentions and verification of the records, the trial Court found that petitioner failed to establish that the plaint schedule property was acquired by the plaintiff sangam and that the document on which reliance is placed to contend that the possession is vested in plaintiff sangam was a genuine document, therefore holding that the plaintiff failed to produce any cogent, proper and consistent evidence to show that the plaint schedule property was allotted to the plaintiff society in the year 1990 and since then plaintiff is in possession and enjoyment of the property, the suit was dismissed.

4. Same relief as sought in the above suit is sought in this writ petition.

5. Learned counsel for petitioner submits that aggrieved by the said judgment and decree, appeal has been filed and the same is pending before the lower Appellate Court.

6. As pointed out by the learned Assistant Government Pleader, admittedly petitioner society is not having valid possession and enjoyment and having suffered a decree by the competent Court, it cannot seek same declaration by way of this writ petition. I find merit in the said contention and accordingly the writ petition is dismissed. However, if the petitioner sangam is in possession as on today, they are granted four weeks time from today to vacate and hand over vacant possession to the respondent authorities. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 1.9.2015
TVK

HONOURABLE SRI JUSTICE P. NAVEEN RAO

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