

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

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

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WRIT PETITION No. 354 OF 2011

Date: 30.10.2015

Between:

Sri Venkateswara Poultry Farm,
Kattamuru, E.G. District.

... Petitioner

And

State of A.P., rep., by its District Collector (Panchayat Wing),
East Godavari at Kakinada & others.

... Respondents

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

WRIT PETITION No. 354 OF 2011

ORDER:

The petitioner, in the instant writ petition, has made the following prayer:

“For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the notice issued by the 3rd respondent Gram Panchayat to the petitioner in Rc.No.9/2010, dated 21.12.2010, whereby and whereunder it has directed the petitioner to stop the construction of shed in its existing poultry farm in Sy.No.572/2 of Kattamuru Village, Peddapuram Mandal, East Godavari District as illegal, arbitrary and without jurisdiction and consequently direct the respondents not to interfere with the construction of shed in the said poultry farm and pass such other further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.’

This Court on 07.03.2011 while dealing with W.V.M.P.No.446 of 2011 and W.P.M.P.No.449 of 2011 passed the following order:

“WVMP.No.446 of 2011 is filed to vacate interim order dated 19.01.2011.

I have heard the learned counsel for the parties and perused the record.

The petitioner is involved in the business of poultry. It is the pleaded case of the petitioner that respondent No.3 Gram Panchayat has granted permission for construction of two poultry sheds in R.S.No.572/2 of Kattamuru Village,

Peddapuram Mandal, East Godavari District under a resolution passed in March 1989 and that the District Medical and Health Officer, respondent No.2, granted permission on 20.06.1989 for construction of two sheds. That the management of the petitioner was changed in the year 1994 and as the poultry sheds have got collapsed due to cyclone in November 2009, the same were removed with a view to construct new sheds in their place and that the petitioner accordingly applied for permission for construction of new sheds to respondent No.3. In its meeting held on 27.02.2010, respondent No.3 has passed a resolution agreeing for construction of sheds in place of the old one and forwarded the petitioner's plan to respondent No.2 through the Divisional Panchayat Officer, Peddapuram for obtaining technical sanction. Respondent No.2 vide proceedings dated 13.09.2010 approved the said plan. While the petitioner was proceeding with the construction, the impugned notice was given by the Panchayat Secretary of respondent No.3.

In the counter affidavit filed by respondent No.3, it is *inter alia* stated that as proceedings dated 13.09.2010 of respondent No.2 were not clear as to whether the approval was for construction of new sheds or for carrying on repairs, a clarification was sought from respondent No.2 and that orders are awaited from him.

A perusal of the proceedings of respondent No.2 show that while stating that the petitioner is permitted to make repairs to the existing poultry form, he has approved the plan, which shows that the proposal for conversion of tiled roof into A.C. sheet roof and extension of poultry shed has been sanctioned.

In the light of the above facts, I find the elements of balance of convenience and irreparable injury in favour of the petitioner to continue the interim order. Accordingly, interim order dated 19.01.2011 is made absolute, subject to the condition that the petitioner shall carry on construction strictly in accordance with proceedings dated 13.09.2010 of respondent No.2.

WVMP and WPMP are accordingly disposed of."

Learned counsel for the petitioner submits that in view of the interim order, dated 07.03.2011, the petitioner has completed the construction and therefore this petition may be disposed of in terms of the said order.

Learned counsel for the respondents has no objection for

disposal of the writ petition in terms of the order, dated 07.03.2011. However, he seeks liberty to the respondents to take action against unauthorized construction, if any, carried out by the petitioner by following the due process of law.

Writ petition is disposed of in terms of the order, dated 07.03.2011, with liberty to the respondents to take appropriate action against the unauthorized construction, if any, made by the petitioner by following the due process of law.

Miscellaneous petitions, if any, shall also stand disposed. There shall be no order as to costs.

DILIP B. BHOSALE, ACJ

Date: 30.10.2015
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