

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

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Public Interest Litigation No.162 of 2015

Date:28.12.2015

Between:

Kotha Jagadish,
Pithapuram,
East Godavari District and others.

Petitioners

And

The State of Andhra Pradesh,
Represented by its Principal Secretary,
Municipal Administration & Urban Development Department,
Hyderabad and others.

... Respondents

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PC: (Per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard Mr. M. Solmon Raj, learned counsel holding for Mr. J. Prabhakar, Advocate on record for the petitioners; learned Government Pleader for Municipal Administration for respondent Nos. 1,5 and 7; Mr. Nimmagadda Venkateshwarlu, learned Standing Counsel for respondent Nos. 2 and 3; Mr. Chintapalli Srinivas, learned counsel for respondent No.6 and learned Government Pleader for Revenue for respondent No.9.

Petitioners in the instant P.I.L. seek the following relief:

“For the reasons stated in the accompanying affidavit, the petitioners herein pray that this Hon'ble Court may be pleased to issue appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the Respondents in making constructions for Rythu Bazar and commencing the same at a place earmarked for open space under LP No. 69/2001 in S.No.250/1 of Pithapuram Municipality, East Godavari District as illegal, violative of Articles 19, 21 and 300A of the Constitution of India, contrary to the provisions of Andhra Pradesh Municipalities Act and issue a consequential direction directing the Respondents herein to remove the constructions and the Rythu Bazar from the said locality and handover the land to the Respondent No.2 herein with a further direction to the Respondent No.2 to develop the same as park and pass such other orders or order as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

The Commissioner of Pithapuram Municipality has filed additional counter affidavit on behalf of respondent Nos. 2 and 3, dated 24.12.2015. In this affidavit, the Commissioner has made the following statements:

“I submit that I have already filed counter Affidavit before this Hon'ble Court with all the details as per the records. I submit that I am here with filing this additional Counter in obedience of the orders of the

Hon'ble Court furnishing all the sites of government, Municipal and private layout open spaces. I submit that there are no big municipal sites are available to establish Rythu Bazar. It is submitted that the Rythu Bazar was already established in L.P. No.69/2001 in an Extent of Ac.0.67 Cents in Private Layout reserved for public purpose, unauthorizedly without permission of construction from the local body or from the Government (Sl. No.28 of the table as mentioned above). I submit that this Hon'ble Court may be pleased to permit to file this additional affidavit."

Mr. Nimmagadda Venkateswarlu, learned Standing Counsel for respondent Nos. 2 and 3 submits that the Municipal administration has already issued notice to respondent No.6. So far, it has not been replied by them. In view thereof, when we expressed the order that we propose to pass and dispose of the P.I.L., learned counsel for the parties have agreed for the same. Hence, we dispose of the P.I.L., by the following order:

"Respondent No.6 shall submit its reply to the notice issued by the Pithapuram Municipality within a period of four weeks from today. If reply is filed/not filed within a period of four weeks, the Municipal Commissioner shall consider the reply, if any, and decide the notice on merits in accordance with law within a period of eight weeks therefrom. It is open to the petitioners to intervene before the Municipal Commissioner, if they so desire. It is needless to mention that the Commissioner shall grant an opportunity of hearing to respondent No.6 and the petitioners, if they so express, before deciding the notice."

With these observations, the Public Interest Litigation is disposed of.

Consequently, pending miscellaneous applications shall also stand closed.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

28th December, 2015

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