

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 17754 of 2011

ORDER:

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Inaction of the respondents in protecting the Chinthakunta Tank covered in Sy.Nos. 16, 16/1 and 16/7 of Krishnapuram Village, C.K.Dinne Mandal, Kadapa District, as illegal and improper is subject matter of dispute in the present writ petition.

The petitioners claiming to have purchased various extents of land covered by registered sale deed in Krishnapuram Village and they are in possession of the said land from the date of execution of the sale deed. One Uppaladadium Venkatanarsaiah filed W.P.No.17854 of 1997 aggrieved by the Gazette Notification No.7 dated 15.07.1989 contending that Krishnapuram Village is an Inam in ryotwari village and the lands in various paimash numbers listed therein from 1 to 46 are Government Lands or as belongs to others. The said writ petition was disposed of with a direction to the petitioner therein to apply for ryotwari patta for the land which he is in possession. When the petitioner therein enquired for issuance of ryotwari patta, he was informed that survey of the said village is not completed and only after completion of survey ryotwari patta will be issued. It is stated that the petitioners herein are drawing water from Chinthakunta Tank for cultivating their lands which are situated in Sy.Nos.16, 16/1 and 16/7 in an extent of nearly Ac.16.00. It is stated that the villagers whose lands covered in Sy.Nos.10, 11, 28, 30 and 38 were also irrigating their land by drawing water from the said tank. It is stated that it is the duty of the government to protect the tank from encroachers and also to maintain ecological balance. It is further averred that though the tank was falling in disuse, no steps are being taken to protect the same. On 14.12.2005 the Government issued a publication for construction of ring road around Kadapa Town. For the purpose of laying the ring road, the Government is said to have acquired the lands of the petitioners and others and also issued notice under Section 9 (2) of the Land Acquisition Act. Taking advantage of non-issuance of ryotwari patta and in view of the abnormal increase in cost of the

land, Gunthapally Sudhakar and his brother are said to have destroyed the tank area and its tank bund by cutting neem trees and level the tank area by creating gift deed No.2006/2011 and also creating link documents and sale in favour of respondent No.6. The averments in the affidavit further shows that respondent No.6 is said to have dug a borewell in Chinthakunta Tank area, thereby trying to encroach on to the tank area. It is further averred that passages of drain water into the tank from western to eastern side thereby making efforts to encroach on to the vacant tank area. Since the respondents failed to take any action in protecting the Chinthakunta Tank, the present writ petition is filed.

On 28.06.2011 while issuing notice before admission, this Court directed the respondents to file a detailed report as to the steps and measures taken by them for conserving water bodies in Y.S.R. Kadapa District and in C.K.Dinne Mandal, in particular.

Respondent Nos.1 to 4 filed their counter denying the averments made in the affidavit filed in support of the writ petition. It has been stated in the counter that the Village Servant and Village Revenue Officer of Krishnapuram Village have been alerted and directed to keep close and constant watch over the Chinthakunta Tank to prevent encroachments in Chinthakunta Tank and other water bodies in C.K.Dinne Mandal. It is further stated that steps have been taken for conserving water bodies in the said place. In reply to para Nos.4 and 5 of the affidavit, it has been stated that as per the status report submitted by the Mandal Surveyor, the land in Sy.No.16 admeasuring Ac.15.38 cents has been sub-divided for the purpose of formation of ring road and the ring road is laid through Sy.Nos. 16/6, 16/8, 16/10 and 16/11. It is specifically stated that there was no encroachment on to the tank area.

In the additional counter which has been filed in the month of September, 2015 by respondent No.2 pursuant to the directions given by this Court, it has been stated that some of the villagers have encroached about Ac.1.48 cents of land by way of hayrick in Sy.No.16/3. It is also stated that the Tahsildar, has issued notices under Section 7 of the Andhra Pradesh Land Encroachment Act to the encroachers on 26.08.2015 and steps are being taken to evict them from the said land, at the earliest.

Respondent Nos.6 and 7 filed their counter reiterating the contents made in the first counter affidavit filed by respondent Nos.1 to 4. It has been averred that the lands in Krishnapuram village are cultivated through water from K.C.Canal which passes through Krishnapuram Village and that Chinthakunta Tank is dried up long back. It has been further averred that the ancestors of respondent Nos.6 and 7 were in possession of the land admeasuring Ac.0.49 cents in Sy.No.16/1 and Ac.1.84 cents in Sy.No.16/7 as such the allegation that respondent Nos.6 and 7 have nothing to do with the tank area and tried to encroach on to the tank area is absolutely incorrect.

It is to be noted that though it has been specifically alleged that G.Sudhakar, who is Ex-Sarpanch of Narasaramaiahgaripalle village and his brother by name Gunthapalli Venkatasubbaiah (respondent No.6) are trying to encroach on to the tank land by creating false documents, but strangely the said Sudhakar is not made as party to the proceedings. Be that as it may, the additional counter which has been filed does not anywhere show that respondent No.6 or respondent No.7 have encroached on to the tank land. The list of 23 persons who are alleged to have encroached on to the tank area either by way of hayrick or dunes or compound walls etc. are mentioned in the additional counter filed in the month of September, 2015, but the names of respondent Nos.6 and 7 do not find place in the said list. On number of occasions, this Court and also the Apex Court directed the revenue authorities to protect the tank bed, water body, river bed and similarly classified lands from encroachments. The Apex Court also directed the authorities to restrict allotment of environmentally sensitive lands, protect such resources by preparing and implementing development/conservation plans.

In **Hinchlal Tiwari v. Kamala Devi** the Apex Court held as under:

“It is important to note that material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature’s bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enable people to enjoy a quality life which is essence of the guaranteed right under Article 21 of the Constitution. The Government, including revenue authorities, i.e., respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of public at large.

Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites.”

It is stated in the first counter filed by respondent No.1 to 4 that the Village Servant and Village Revenue Officer were entrusted with the duty of protecting the tank land and there are no encroachments on to the said land. The said counter was filed in the year 06.12.2011. However, the additional counter filed in the month of September, 2015, reflects encroachment on to the tank lands by some persons. Therefore, the revenue authorities are not vigilant in preventing the encroachments on to the tank land. It is well known that if any encroachments are made, the authorities have to follow a lengthy procedure to get them evicted which normally takes sufficiently long time. The authorities should have been more prudent by taking all the necessary steps to prevent such encroachment. It is now stated that notices have been issued to the encroachers under Section 7 of the Land Encroachment Act which was also served on them through V.R.O. on 26.08.2015. Therefore, the authorities are directed to take steps as expeditiously as possible and see that the Chinthakunta Tank is made free from encroachments. The respondents are also advised to maintain all the tanks in C.K.Dinne Mandal free from encroachments as directed by this Court earlier.

With the above direction, the writ petition is disposed of. No order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

23.11.2015

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