

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

PIL No. 216 OF 2015

26-10-2015

Between:

Janapareddy Eswara Rao

... Petitioner

And

The State of Andhra Pradesh, rep., by its Principal Secretary,
Revenue Department, Secretariat, Hyderabad and others

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

-
PIL No. 216 OF 2015

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

Heard learned counsel for the parties.

The petitioner, in the instant public interest litigation (PIL), seeks the following relief:

“For the reasons mentioned in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue a Writ, order or direction, more particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the respondents 2 to 4 in not taking action on the complaint submitted by the farmers on 28.02.2015 against the encroachment of the Government land i.e., Poramboke Rasta in Sy.No.256/6 to an extent of Ac.0-70 cents situated at Narasayyapeta Village of Chodavaram Mandal, Visakhapatnam District as illegal, arbitrary, unconstitutional and violative of Art. 21 of the Constitution of India and consequently direct the respondents to immediately take action against the unofficial respondent for encroaching in Sy.No.256/6 to an extent of Ac.0-70 cents situated at Narasayyapeta Village of Chodavaram Mandal, Visakhapatnam District, as per the Revenue Records, and pass such other order or orders as this Hon'ble High Court may deem fit and proper in the circumstances of the case.”

Respondent No.4 – Tahsildar has filed counter affidavit dated 09-09-2015 and in respect of the land in dispute, namely, Survey No.256/6, he has stated thus:

“It is submitted their during my enquiry it reveals that there are certain Palmargh trees existed in the

S.No.256/6 and 257/1 fallen due to Hud Hud Cyclone one Sri Janapareddy Tata Babu has leveled the land by cutting the logs of palmrah Trees fallen. It is further submitted that there is water course through the land in S.No.256/6 is connecting to the pipes laid across the road leading to Laxmipuram.

As verified from the revenue records the land in S.No.256/6 is having details of assessment and tharam and mentioned in the name of Sri J. Appala naidu and also recorded as classified as sarkaru punja and shown as Rasta in Remarks Column at the edge of SFA irrelevantly. In respect of land measuring Ac.0-70 cts covered by S.No.256/1 Pattadar Pass Book/Tds were issued to Sri J. Tababbai as heirs of the family.

In reply to Paras 3 to 5 of the affidavit, it is submitted that the land in question covered by S.No.256/6 is classified as Dry land measuring Ac.0-70 cts belonging to the Pattadar Sri Janapareddy Appalanaidu, and hence the averments made in this para that the respondents 2 to 4 is not maintaining the water course through this land connecting the fields under the Irrigated tank locally called as Pentayya Tank is totally untenable.

It is further submitted that, as per the state of things on ground there is no traces of using of the land in S.No.256/6 as Rasta by the local villagers, and this land is under the possession and enjoyment of Sri J. Tatabbai, and no hindrance made over the land by him to the water course in rainy season.”

In view of the statements made on affidavit by Tahsildar, learned counsel for the petitioner submits that the petitioner would be satisfied if the person in possession of Survey No.256/6 does not create any obstruction to the flow of water in rainy season passing through Survey No.256/6.

Learned counsel appearing for respondent No.5, without prejudice to the rights and contentions of respondent No.5, submits that if at all there is water course in rainy season passing through Survey No.256/6, he shall not obstruct the same. Her statement is accepted.

In view thereof, learned counsel for the petitioner does not press the PIL.

PIL is disposed of as not pressed. Disposal of the PIL and the observations made in this order shall not be construed as observations on the merits of the case and it is open to the parties to adopt appropriate remedy for redressal of their grievance, if any, before the appropriate forum.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

26-10-2015
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