

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

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V.BHATT

PUBLIC INTEREST LITIGATION No.53 OF 2014

DATED: 08.06.2015

Between:

K.Raveendra Reddy

... Petitioner

and

The Government of Andhra Pradesh and others

... Respondents

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V.BHATT

PUBLIC INTEREST LITIGATION No.53 of 2014

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

Heard learned counsel for the parties.

In this Public Interest Litigation, the petitioner seeks the following relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue writ, order or direction more in the nature of Mandamus or any other appropriate writ declaring the action of the Respondents 1 to 6 in not removing the encroachments over the land of “PEDACHERUVU” Irrigation Tank at Muthukuru Village and Mandal, SPSR Nellore District as illegal, arbitrary and contrary to public interest and consequentially direct the Respondents 1 to 6 to remove the encroachments from the land of Pedacheruvu Irrigation Tank at Muthukur Village & Mandal, SPSR Nellore District forthwith and to pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of this case.”

Learned counsel appearing for the petitioner, at the outset, invited our attention to Ex.P.8 on page 28 of the petition to show the extent of the land held by Pedda Cheruvu of Muthukur Village and Mandal. In other words, the water spread area as shown in this exhibit is 221.15 acres in Survey Nos.240 to 248, 254, 255/B, 259-B and 265/B. Our attention was also invited to another document namely statement showing the encroachments in the water bodies and tank beds. Sl.No.56 thereof shows reference to the tank in question. The entry shows the extent of tank bed area 206 acres and extent of encroachment 160 acres. It is on the basis of this, learned counsel appearing for the petitioner vehemently submitted that the encroachment on the land to the extent of 160 has not been removed by the concerned authorities despite the petitioner made repeated efforts.

Respondent No.6 has filed counter-affidavit dated 23.04.2015 and in paragraphs 3 to 6, he has stated thus:

3. “It is submitted that prior to 2010, there were certain encroachments over an area of Ac.35.00 in Pedda Cheruvu. Those encroachments were subsequently

removed. The then Joint Collector, Nellore during his personal inspection on 13.01.2014 has noticed some cultivation marks in Pedda Cheruvu area where encroachments were in existence earlier. He instructed the Village Revenue Officer and Mandal Surveyor, Muthukur not to allow any further cultivations in Pedda Cheruvu tank and see that there should not be any further encroachments.

4. It is submitted that subsequent to 2010, there were no encroachments whatsoever in Pedda Cheruvu area. Pursuant to the Joint Collector letter No.Rc.E1.5142/2012 dated 16.1.2014 and Revenue Divisional Officer letter No.Rc.D.4328/12 dated 23.1.2014, the Mandal Surveyor and the Village Revenue Officer, Muthukur have inspected the site in question and noticed that there were no encroachments whatsoever.
5. It is further submitted that pursuant to the orders of this Hon'ble Court dt.20.4.2015 in the PIL, the Tahsildar, Muthukur Mandal and the Mandal Surveyor along with the Village Revenue Officer once again inspected the Pedda Cheruvu and noticed that there are no encroachments whatsoever and accordingly submitted a report to the Collector on 22.4.2015.
6. It is further submitted that as stated in para 19 of the earlier counter affidavit filed by the Collector, the Irrigation Department was under a bona fide mistake that there are encroachments in the lands in Sy.Nos.251, 252, 253, 255/1C and 265/1A etc. But in fact, these lands does not form part of Pedda Cheruvu and they are all private patta lands as per RSR. Those lands are situated towards North Eastern side of Peddacheruvu i.e., in between R&B Road and Pedda Cheruvu where structures have been in existence. As submitted earlier, the total extent of Pedda Cheruvu of an extent of Ac.206.93 cents is intact except an extent of Ac.12.39 cents for which conversion was given even in the year 1973. I once again submit that there are no encroachments whatsoever in Pedda Cheruvu Tank."

From perusal of the counter-affidavit, it is clear that the Irrigation Department through inadvertence had shown encroachment to the extent of 160 acres in Survey Nos.251, 252, 253, 255/1C and 265/1A. These lands, as stated on counter-affidavit by respondent No.6, do not form part of Pedda Cheruvu tank and they are private patta lands as per RSR.

In view of the statements made on counter-affidavit, we find that the petitioner filed the instant Public Interest Litigation on the assumption that the lands in Survey Nos.251, 252, 253, 255/1C and 265/1A were part of Pedda Cheruvu tank and there was encroachment. We do not find any reason to disbelieve the statements made on counter-affidavit by respondent No.6 pointing out the mistake of Irrigation Department in stating about the alleged encroachment to the extent of 160 acres. Nothing was placed before us so as to point out that the statements made on counter-affidavit are either incorrect or false.

In the circumstances, we do not find any merit in the PIL.

This petition is accordingly dismissed. At this stage, we observe that the concerned respondents shall under any circumstances ensure that the tank area of Pedda cheruvu is not encroached even in future.

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

8th JUNE, 2015.

S.V. BHATT, J

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