

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

W.P.No.14551 OF 2015

PC: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard learned counsel for the petitioner and
Sri Dammalapati Srinivas, learned Additional Advocate General for the
respondents.

The petitioner in the instant writ petition makes the following
prayer:

“For the reasons stated in the accompanying affidavit,
it is hereby prayed 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 or any other appropriate writ by
declaring the action of the respondents as illegal, arbitrary,
high handed and in violation of Articles 14, 19 and 21 of the
Constitution of India, by granting the following reliefs:-

(a) To declare Rule 5(1) to (15) of Andhra Pradesh
Capital City Land Pooling Scheme (Formulation and
Implementation) Rules 2015 as ultra vires of the Articles 14,
19 and 21 of the Constitution of India, as the said rule
discriminates and omits poultry farmers as they are not being
treated on par with dry and wet (jareebu) farmers and
horticulture farmers in the Capital City Land Pooling Scheme
Area;

(b) To declare the action of the respondents in
framing the Andhra Pradesh Capital City Land Pooling
Scheme (Formulation and Implementation) Rules 2015 as
ultra-vires of Articles 14, 19 and 21 of the Constitution of India
as they do not contemplate to treat poultry structures and
farmers on par with other dry and wet and horticulture
farmers;

(c) To declare the present CARD value/basic value
register of the lands situated in Thulluru, Tadapalli and
Mangalagiri Mandals of Guntur District (more particularly in
the jurisdiction of Andhra Pradesh Capital City Area schedule
as mentioned in G.O.Ms.254 MA&UD(M-2) Department
dated

30-12-2014 as deliberately grossly undervalued by the
Government of Andhra Pradesh, to deprive proper market
value compensation to the land holders in the capital region
more particularly to the petitioner's land and structures/poultry
sheds/residential building etc., and that this action of the State
of Andhra Pradesh is against the Principles of Promissory

Estoppel and the Principle of Legitimate Expectations and Reasonableness.

(d) To direct the respondent from exempting the petitioner's lands in Survey Numbers – 3C, 3B, 17/1, 17/2, 18/1A and 18/1B to a total combined extent of Ac.6-36 cents situated in Ananthavaram village, Thulluru Mandal, Guntur District, which are abutting to Vadlamanu village and Gramakantam of Ananthavaram village which are already exempt from the Andhra Pradesh Capital City Land Pooling Scheme, as the same are not classified under G.O.Ms.No.254, MA & UD (M2) Dept Dt.30-12-2014 as "A.P. Capital City Area";

(2) And to pass such other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case."

Learned counsel for the petitioner read the writ affidavit, counter affidavit filed by the respondents and reply affidavit filed by the petitioner for quite some time.

In the course of arguments, learned Additional Advocate General at the time of hearing has placed on record the application filed by petitioner in Form 9.3 under Rule 6 (ii) of A.P.C.C.L.P.S (Formation and Implementation) Rules, 2015.

Learned counsel for the petitioner, having regard to the legal effect of Forms 9.3 and 9.7, has substantially given up his argument on the substantive prayers referred to above.

The learned counsel for the petitioner alternatively draws our attention to the following paragraphs in the counter affidavit of 1st respondent, which reads as follows:

"With regard to the Grounds (ii) & (iii), it is incorrect to say that the scheme is arbitrary and highhanded and it discriminates the citizens of the purported capital city area. Just because the modalities of dealing with poultry farming have not been worked out, it does not render the scheme as illegal. It is submitted that poultry comes under agricultural land but procedure was not arrived at for fixing the valuation of immovable properties attached to land in cases of scattered houses/poulties etc., not covered by G.O.Ms.No.43 MA & UD (M2) Department,

Dt.09.03.2015. The returnable land benefits are fixed for the lands covered by poultry but norms by which the valuation of immovable property to be arrived at has not yet been finalized. Pending such decision by Government the physical possession of lands covered by poultry, could not be taken. Because of this it is not correct to say that the AP CRDA Act, 2014 is unconstitutional. The petitioner will not be displaced without payment of amount by AP CRDA either under AP CRDA Act 2014 or under LA R & R Act, 2013 as the case may be after the disposal of the objections filed by the petitioner in Form 9.2.”

From the above, the limited submission of learned counsel for the petitioner is that the petitioner may be given an opportunity of making a representation on the details of existing structures viz., the poultry, residential/servant quarters etc., to all the respondents and the respondents may be directed to take into consideration while fixing the value payable to petitioner. These details, it is urged, would be useful for determining the valuation payable to poultry shed etc., in existence in petition land. The learned Additional Advocate General submits that the petitioner is free to make a representation with all details to the respondents and at the time of determining value payable for the structures in existence in the land given under the pooling scheme, the authorities will examine the details given by the petitioner as well and appropriate decision on the value payable in this behalf will be decided and along with others the petitioner will also be communicated.

Having regard to the above, we are satisfied that the writ petition can be disposed of in the following terms:

- i. The petitioner is given four weeks time from the date of receipt of copy of this order to file representation together with plans, if any, of the existing structures at the land offered under the pooling scheme under the A.P. Capital Region Development Authority Act, 2014 and the respondents are directed to consider the details furnished by the petitioner while determining value of structures and take appropriate decision thereon;
- ii. It is needless to observe that if the petitioner, for any reason, is not satisfied with the determination of

value by the respondents, the petitioner is free to pursue the legal remedies available in law against such determination of the value by the respondents; and

- iii. The Registrar (Judicial) is directed to return the demand draft of Rs.50,000/- deposited by the petitioner pursuant to our order dated 23.07.2015.

The writ petition is disposed of as indicated above. No costs.

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

ACJ

DILIP B. BHOSALE,

S.V.BHATT,

J

Date: 03.09.2015

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