

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos.9167 and 4034 OF 2010

COMMON ORDER:

Since the parties and the issue involved in both the writ petitions are one and the same, they are being disposed of by this common order.

2. Writ Petition No.9167 of 2010 is filed seeking a writ of Mandamus declaring that the permission to dig fish tank in their lands is deemed to have been granted in view of the inaction to act on their applications filed with the 1st respondent not being disposed of within the stipulated period and consequently direct the respondents not to interfere with the conversion and digging of the fish tank in the lands in Sy.Nos.300, 302, 303, 304, 297/3, 301/3, 301/4, 302/2, 302/3, 298/1, 298/2, 299, 300/4, 301/1, 353 to 359, 347, 352/2, 349/1, 351/2, 348/1A, 352/2B, 352/3A, 348/1B, 359/3, 347/3, 350/1, 350/2A, 352, 351, 349, 346, 344, 359 and 350 of Aredu Village of Undi Mandal in West Godavari.

2a) Writ Petition No.4034 of 2010 is filed seeking a Writ of Mandamus declaring the inaction of the respondents 1 to 3 in not taking preventive action against the respondents 4 to 11 with their proposal of converting agricultural lands into fish tanks in Sy.Nos.302 to 304, 343, 344, 351/2, 352/20, 354 to 359/C and 357/1A of Aredu village of Undi Mandal of West Godavari District, and contrary to the directions of this Court in its Judgment reported in 2002 (1) ALD 728 and also contrary to the provisions of Central Aqua Cultural Authority Act, 2005 (in short "the Act").

3. For the sake of convenience, the parties are referred to as arrayed in W.P.No.9167 of 2010.

4. The specific case of the petitioners is that in 2009 with a view to dig a fish tank in the lands situated in Sy.Nos. 300, 302, 303, 304, 297/3, 301/3, 301/4, 302/2, 302/3, 298/1, 298/2, 299, 300/4, 301/1, 353 to 359, 347, 352/2, 349/1, 351/2, 348/1A, 352/2B, 352/3A, 348/1B, 359/3, 347/3, 350/1, 350/2A, 352, 351, 349, 346, 344, 359 and 350 of Aredu Village of Undi Mandal in West Godavari, the petitioners made applications on 28.07.2009 by paying requisite fees through Vijaya Bank, Kolamuru. Though the fees were received by the 1st respondent, the applications were not processed. After waiting for some time and taking advantage of the deeming provision in G.O.Ms.No.18, dated 26.03.2008, petitioners dug the fish tanks. There was no complaint by any one and there was no objection from the authorities during the period of construction. Thereafter, certain persons have started interfering with the petitioners fish tanks with threats and making complaints to the respondent authorities on the ground that the petitioners have not obtained permissions as required in terms of G.O.Ms.No.83, AH, DD&F (F.II) Department, Dated 12.09.2007. Apprehending highhanded action of the respondents, petitioners approached this court seeking for relief as set out above.

4a) It is the contention of the unofficial respondents that the petitioners have started converting the agricultural lands into fish tanks without permission under the Rules notified as per the Central Aqua Cultural Authority Act, 2005. Conversion of agricultural lands into fish tanks would contaminate neighbouring lands and their lands would become uncultivable. Their representation to the authorities and even to the local M.L.A. did not yield any result, thus the W.P.No.4034 of 2010.

5. A counter affidavit has been filed by the 1st respondent-Deputy Director of Fisheries Department on 18.10.2010. The averments made by the petitioners that they had made an application on 28.07.2009 and they had dug the fish tank are not denied. However, the respondents had stated in their counter that the G.O.Ms.No.83, dated 12.09.2007 has been replaced

with G.O.Ms.No.24, dated 09.04.2010, wherein the deeming clause has been done away with, thereby without there being permission granted by the authorities, the fish tanks cannot be dug. The respondents also had placed on record the judgment of this court in W.P.No.716 of 2012, dated 08.07.2015, wherein a detailed discussion has been made in relation to the digging of fish tanks and the procedure that is required to be followed.

6. The facts are not in dispute. Considering the fact that the petitioners have completed the digging of fish tank by the time G.O.Ms.No.24, dated 09.04.2010 came into existence, the said G.O., cannot be pressed into service against the petitioners. The deeming provision in G.O.Ms.No.83, was available to the petitioners and the petitioners' applications for registration of the fish tanks are required to be processed in terms of G.O.Ms.No.83. Though as on today, G.O.Ms.Nos.83 and 24 are not in force and the G.O.Ms.No.7, dated 16.03.2013, is in operation the petitioners shall be deemed to have been granted permission under G.O.Ms.No.83. However, if any procedural and precautionary requirements that are required to be complied by the petitioners in terms of G.O.Ms.No.7, the respondent authorities shall communicate the same to the petitioners and the petitioners shall implicitly comply with the same. It is need less to mention that petitioners shall be given adequate opportunity and adequate time for compliance with the requirements that may be required to be complied in terms of G.O.Ms.No.7, dated 16.03.2013. With this above direction W.P.No.9167 of 2010 is disposed of.

7. In W.P.No.4034 of 2010, petitioners sought implementation of the guidelines as set out in the Judgment of this Court in **Madireddy Padma Rambabu v. District Forest Officer, Kakinada**. This judgment has been taken into consideration by the learned Single Judge while rendering the judgment in W.P.No.716 of 2012, dated 08.07.2015. It is not necessary to this Court to mention specifically that the authorities are bound to

implement and comply with the guidelines and the law declared by this Court in the respective judgments in implementation of the policies of the Government. In that view of the matter, there is no requirement of passing any special orders in this writ petition, except recording as above. Accordingly, the Writ Petition No.4034 of 2010 is closed.

8. There shall be no order as to costs. As a sequel, miscellaneous petitions pending in these writ petitions, if any, shall also stand closed.

CHALLA KODANDA RAM, J

Dated: 07.11.2015

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