

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

**MONDAY, THE THIRTY FIRST DAY OF AUGUST TWO
THOUSAND AND FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2014 of 2015

Between:

Guttula Srinivasarao,
S/o. Krishna Murthy,
Aged about 40 years, Occ: Agriculture,
R/o. Gangalakurru Village, Ambajipet Md.,
East Godavari District & another

.. Petitioners

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Department of Panchayat Raj,
Secretariat Buildings, Hyderabad & 4 others

.. Respondents

The Court made the following:

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ORDER:

The petitioners claim to be the permanent residents of Gangalakurru Village, Ambajipet Mandal, East Godavari District. According to the petitioners, Late Garimella Subbanna has donated an extent of Ac. 12.62 cents in Survey Nos.78/1, 2 and 3 of Gangalakurru Village for the purpose of constructing drinking water lake and accordingly, a fresh drinking water lake was constructed and the same has been supplying the drinking water needs of Gangalakurru Village and other neighbouring villages. While so, some interested persons are seeking to convert the said water tank into a fishing pond permanently. According to the petitioners, Fisherman society of Mosalapalli and Rajakaseva Sangham, Gangalakurru, have been given lease to cultivate fish and prawn in the said drinking water tank. The lease has expired in July, 2013, whereas, the Village Panchayat, Gangalakurru, has passed a resolution on 19.06.2014 requesting the Divisional Panchayat Officer, Amalapuram, East Godavari District (4th respondent) for permission to lease and to fix minimum price. The petitioners further contended that respondents 2 to 4 are attempting to extend the said lease or to conduct a fresh auction for the purpose of cultivating fish and prawn in

drinking water tank. The petitioners allege that converting drinking water tank into a fish pond resulted in contaminating and polluting the waters in the said tank and thereby leading to health hazardous. It is further contended that the methods of artificial fishing and prawn culture adopted by some third parties is causing pollution in the said drinking water tank. Using of agricultural tank and drinking water tanks for fish culture will adversely affect the future generations in many ways. Hence, this writ petition.

2. Learned Standing Counsel representing the Gram Panchayat submits that the allegation that the said tank is a drinking water tank is not correct. It is a village tank and there has been leasing of fishing rights dating back to several years and at least, as per the records available, such lease has been granted since 1976-77. In support of his contention, along with the counter affidavit filed on behalf of the Gram Panchayat, the resolution passed by the Gram Panchayat on 29.12.1981 and the extract of register dealing with income from the village tank are enclosed. Learned Standing Counsel further submits that bore wells are dug from out of which the water is drawn for providing drinking water facility in the village.

3. Learned counsel representing the implead respondents 6 and 7 submits that the fishing tank is in existence for decades and lease has been granted to the party respondents for several years. The last lease was granted to them in the year 2011, which expired on 30.06.2014. Since the lease has come to an end, the

respondent Gram Panchayat passed a resolution on 19.06.2014 proposing to extend the lease for another three years. At this stage, because of filing of the present writ petition, the lease is not granted and the party respondents are subjected to lot of hardship and suffering since they are relying on the said fishing rights to eke out their living. Learned counsel further submits that as seen from the record of earlier W.P.No.11347 of 2002, which was filed by the 6th respondent against the 7th respondent, in the counter affidavit filed by the District Collector, it is clearly stated that the tank is a village tank. Though it is called as 'Manchineeti Cheruvu', but it is never used for drinking purpose. Since time immemorial, it is used for washing cloths. Having regard to the same, the said writ petition was disposed of directing consideration of the issue by the competent authority and, accordingly, the issue was considered and leasehold rights were granted in favour of the 7th respondent Sangam.

4. The counter affidavits filed on behalf of the respondent Gram Panchayat as well as the party respondents and the material enclosed would clearly disclose that this tank is never treated as a drinking water tank, but it is a regular village tank and it is used for several purposes including the rearing of fish and conferring of fishing rights on respondents 6 and 7. A false grievance is made to stall the grant of fishing rights in favour of respondents 6 and 7. In fact, even though there is a reference in the affidavit granting of lease to respondents 6

and 7 and though they were existing lease holders, they were not arrayed as respondents and they got impleaded as respondents. Thus, there is no merit in the writ petition.

5. If it is the case of the petitioners that leaseholders are polluting the water by using pesticides, it is always open to the petitioners to complain to the appropriate authority. As seen from the material papers enclosed to the writ petition and the averments in the writ affidavit, no such complaint was ever filed and straight away, the writ petition is filed making such vague allegations.

6. Leaving it open to the petitioners to ventilate their grievance with substantive material in support of their claim before the appropriate authority dealing with the issue of pollution of lakes and using of hazardous chemicals, the Writ Petition is, accordingly, dismissed. The interim orders granted earlier on 05.02.2015 stands vacated. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 31st August, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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