

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.28926 of 2011

-
Date: 07-10-2015
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Between:

Vuyyuru Fishermen Cooperative Society Ltd.,
Rep. by its President Gaddam Subbaiah

PETITIONER

AND

1. The District Collector, Krishna District, Machilipatnam, and
others.

RESPONDENTS

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

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ORDER:

The case of the petitioner is that the petitioner-society has been granted lease in respect of Oracheruvu, Vaddi Cheruvu, Murthy Raju Gudem Cheruvu, Rajakula Kunta and Mulapadukunta Cheruvu, situated at Gandigunta Village, Vuyyur Gram Panchayat, Krishna District, by the 1st respondent from the last 25 years. The lease for the period 2011-12 was also granted in favour of the petitioner-society by fixing the upset price Rs.86,450/- and to that effect the 3rd respondent passed a resolution. The petitioner-society entered into an agreement with the 3rd respondent and enjoying the fishing rights as per the terms and conditions of the agreement dated 03.08.2011. According to Clause 8 of the said lease agreement the petitioner-society has to keep the fish food on the eastern side tank bund of Ora Cheruvu tank. While so, on a complaint made by the 5th respondent before the 1st respondent in Prajavani requesting to order removal of fish food kept at Ora Cheruvu tank bund by the petitioner-society as the same is causing ill health to her, the 2nd respondent issued proceedings dated 04.08.2011 to the 3rd respondent to order removal of fish food. Acting on the same, the 3rd respondent issued impugned proceedings dated 25.08.2011 to the petitioner-society asking the petitioner to remove the fish food kept at Ora Cheruvu tank bund. Challenging the same, the petitioner filed the present writ petition.

In response to the notice issued by this Court the 3rd respondent filed counter affidavit admitting grant of lease and extension of the

same in favour of the petitioner-society from 2012-13 to 2014-15. On a complaint made by the 5th respondent to the District Collector, Krishna District in Prajavani stating that the petitioner-society dumped fish feed material on the Ora Cheruvu tank bed, which is causing bad smell and ill health, the District Collector forwarded the same to the 2nd respondent for necessary action. The 2nd respondent instructed the 3rd respondent to take appropriate steps for removal of the said fish feed material on the tank bed of Ora Cheruvu. In pursuance of the said instructions, the 3rd respondent personally visited Ora Cheruvu tank and instructed the petitioner-society not to dump the feed material on the tank bed and directed to keep the feed material at Eastern side of the tank. In spite of the instructions the petitioner society dumped the feed material on the tank bed and not allowing the villagers to walk on the tank bed. In those circumstances the impugned notice has been issued to the petitioner.

Heard learned counsel for the petitioner and Sri Ravi Cheemalapati, learned Standing Counsel for respondent No.3 and Sri V.R. Avula, learned counsel for respondent Nos.4 and 5.

Learned counsel for the petitioner submits that as per Clause 8 of the lease agreement dated 3.08.2011 entered into by the petitioner with the 3rd respondent, the petitioner is entitled to store the fish feed at Ora Cheruvu tank.

Sri Ravi Cheemalapati, learned Standing Counsel for the 3rd respondent submits that basing on the complaint of the villagers appropriate action has been taken.

Sri V.R. Avula, learned counsel for the 4th and 5th respondents also submits that the 5th respondent gave a complaint to the 3rd respondent stating that the petitioner has dumped the fish feed at the tank bed, which emanates bad smell and causing ill health to her as well as the villagers and in spite of several requests made by them the petitioner is not removing the same.

There is no dispute that the lease has been granted to the petitioners and agreement dated 3.08.2011 has been entered into between the petitioner and the 3rd respondent. It is also not in dispute that as per Clause 8 of the said agreement the petitioner is entitled to store the fish feed at the Eastern side of tank bed.

Tank beds are meant for public use and not for any person or any society. Though as per the agreement the petitioner can store the fish feed on the Eastern side of the tank bed, since bad smell is emanating and causing obstruction to the villagers to walk on the tank bed, it cannot be said that the 3rd respondent has no power to remove the said obstruction. In view of the same, I do not see any merit in the writ petition

Accordingly, the writ petition is dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A. RAJASHEKER REDDY.J

7th October, 2015
Js.