

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition Nos.26561 & 25794 of 2015

Dated 03.11.2015

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Between:

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WP.No.26561/15

Venigalla Kishore

... Petitioner

-

WP.No.25794/15

Cheruku Venkata Chandra Mouli

... Petitioner

and

-

The State of Andhra Pradesh

rep. by its Prl.Secretary

Panchayat Raj & Rural Development Dept.,

Hyderabad and 2 others.

...Respondents

Counsel for the petitioners: Mr.Y.Ramatirtha

Counsel for respondents 1 and 2: AGP for Panchayat Raj (AP)

Counsel for respondent No.3: Mr.Ravi Cheemalapati

The Court made the following:

Order:

Certain occupants of the space between a public road and fresh water tank, carrying on petty businesses by raising small temporary structures, filed these two Writ Petitions feeling aggrieved by separate but identical proceedings in ROC.No.65/2015, dated 01-08-2015. It is their pleaded case that their occupation of the space is not in any manner affecting public interest nor they have been causing any pollution as alleged in the impugned proceedings.

In the detailed counter-affidavit, filed by the Panchayat Secretary of respondent No.3- Gram Panchayat, it is *inter alia* averred that the petitioners have occupied the tank bund and the road leading to an Engineering College and that such occupation is not only polluting water in the fresh water tank but also causing traffic obstruction, which led to issuance of notice, dated 08-05-2015, calling for explanation from them to show cause why encroachments should not be removed. It is further stated that except petitioner No.3 in WP.No.25794 of 2015, all others have submitted their explanations and that after considering the same, respondent No.3 *vide* its Resolution No.70, dated 27-06-2015, directed removal of all the encroachments.

Being the local body, it is the responsibility of respondent No.3 to maintain the road margins and also the water bodies free from encroachment as they are vested in it under the provisions of the Andhra Pradesh Panchayat Raj Act, 1994. Admittedly, the petitioners are in occupation of the land, which

is vested in respondent No.3- Gram Panchayat. Though they have denied the allegation that they have been polluting fresh water tank, the fact that their encroachments are abutting fresh water tank near the margin of Penjandra road is not in dispute. Hence, the allegation of respondent No.3 that occupation of such land by the petitioners has the potential of polluting the fresh water tank and obstructing traffic flow appears to be well founded and therefore, no exception can be taken to the impugned proceedings.

The learned Counsel for the petitioners submitted that as his clients have no other source of living and there is vast land belonging to respondent No.3 available in front of its office, it may consider allotting a part of the said land in order to relocate the petitioners' businesses. In my opinion, this aspect cannot be decided in this Writ Petition as no specific pleadings in that regard have been raised. The petitioners are, however, permitted to make a representation to respondent No.3 for allotment of alternative land subject to its availability. On such representation being filed, respondent No.3 shall consider the same, take a decision thereon and communicate the same to the petitioners within one month from the date of its receipt. However, eviction of the petitioners from the present land shall not be linked with the disposal of their representation by respondent No.3.

Subject to the above directions, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.Nos.33482 and 34509 of 2015, filed by the petitioners for interim relief, are disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 3rd November, 2015

LUR