

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No. 4861 of 2015

DATE: 09.03.2015

Between:

Srinivasa Fishermen Co-op. Society

.. Petitioner

And

1. The State of A.P.
 2. The Tahsildar
 3. The Commissioner of Endowments
 4. Andhra Jatiya Vidhya Parishad
- Respondents

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ORDER:-

The assertion of the petitioner-Srinivasa Fishermen Co-operative Society (for brevity "the Society") is that in the year 1968, the Society was granted an extent of Ac.18.00 cents of lands in R.S.No. 78 situated in Polekurru village, Tallarevu Mandal, East Godavari District and since then the Society consisting of 168 members, have been in possession and enjoyment of the land in various extents by doing cultivation. It is stated that the 4th respondent, who has title in respect of Ac.106.08 cents of land in R.S.No. 77 of the same village situated on the eastern side of the petitioner's land, while giving lease of Ac.93.00 cents out of Ac.106.08 cents to some third parties by way of conducting auction, encroached the lands belonging to the Society without any manner of right. Therefore, the petitioner filed W.P.No. 16246 of 2001 seeking a direction to the revenue authorities to conduct survey of the lands in R.S.Nos.77 and 78, and this Court, by order dated 07.08.2001, directed the authorities concerned to demarcate the boundaries of the lands, but the direction of this Court has not been complied with so far. While so, it is stated the

4th respondent, issued a Tender Notification dated 16.02.2015 proposing to conduct auction of leasehold rights on 28.02.2015 in respect of the lands admeasuring Ac.106.08

cents in R.S.No. 77 in the office of the Deputy Commissioner, Endowments Department, Kakinada. Then, the Society made representation dated 23.02.2015 requesting the respondents to stop the 4th respondent from conducting the proposed auction. Now, the petitioner's grievance is that the respondents have neither considered the representation nor demarcated the lands in R.S.Nos.77 and 78 in pursuance of the orders of this Court, and more so, the 4th respondent, without having any manner of right and by encroaching the lands belonging to the members of the Society, is proposing to auction leasehold rights in respect of the land situated in R.S.No. 77 for the purpose of prawn and fish culture. Hence, the present writ petition is filed seeking appropriate directions.

The learned Government Pleader for Revenue appearing for the 1st and 2nd respondents, the learned Government Pleader for Endowments appearing for the 3rd respondent and the learned counsel for the 4th respondent have submitted that it is only on account of the fact that the petitioner is not pursuing the matter with the respondents in respect of demarcation of the lands in question and fixation of boundaries thereof, no survey has been conducted and the present writ petition seeking implementation of the orders passed by this Court in W.P.No.16246 of 2001, is not maintainable and the same is liable to be dismissed.

Heard the learned counsel for both the parties and perused the material on record.

Even though the technical objection raised by the respondents is *prima facie* sustainable, but in the facts of the

case, the same need not be gone into as to whether this writ petition is maintainable for implementation of the earlier orders passed by this Court. The only controversy involved is with respect to availability of the actual land in R.S.Nos. 77 and 78 and its boundaries. It is not in dispute that the 4th respondent is under the direct administrative control of the 3rd respondent -Commissioner of Endowments Department. In that view of the matter, it would be in the interest of the 3rd respondent to protect the land belonging to the Endowments Department and make best use of it so as not to lose the valuable property as well as revenue that may be derived from it. Hence, this Court feels that the controversy in issue can be settled if the writ petition is disposed of with the following directions:

“The 2nd and 3rd respondents are directed to take all necessary steps to approach the competent authorities under the provisions of the A.P. Survey and Boundaries Act, 1923 seeking assistance with respect to demarcation of the lands in R.S.Nos.77 and 78 and fixation of the boundaries thereof. The survey and boundary authorities shall issue notice to all the parties concerned particularly to the members of the petitioner-Society and the 3rd and 4th respondents – authorities and complete survey and demarcation. The entire exercise shall be completed within a period of three months from today. The respective parties are at liberty to exhaust the remedies as may be available to them under law including that of preferring appeal if they are aggrieved by the survey report that may be issued by the survey authorities.”

With the above directions, the writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

CHALLA KODANDA RAM,

J

09.03.2015

bcj