

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

WRIT PETITION Nos. 15593 & 21824 of 2015

BETWEEN

V.Satyanarayana

...Petitioner in WP.No. 15593 of 2015

Guthula Danaiah and ors

...Petitioners in WP.No.21824 of 2015

And

State of Andhra Pradesh,
Rep. by its Principal Secretary,
Fisheries Department, Secretariat,
Hyderabad and ors.

.....Respondents in both WPs

DATE OF JUDGMENT PRONOUNCED: 06.08.2015.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

1. Whether reports of Local newspapers
may be allowed to see the judgments?
YES/NO
2. Whether the copies of judgments may be
marked to Law Reporters/Journals.
YES/NO

3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment ?
YES/NO.

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION Nos. 15593 & 21824 of 2015

-
COMMON ORDER:

-
Heard learned Counsel on either side.

Writ Petition No. 15593 of 2015 is filed challenging the action of respondents in not allowing the petitioner to dig fish tank in the land to an extent of Ac.14.22 cents comprised in Sy.Nos.21, 22/4, 26/3,4,5,6,27,28/1,2,4 of Venkatarajapuram village, Ganapavaram mandal, West Godavari District pursuant to the grant of provisional registration certificate on 6.2.2015 in terms of G.O.Ms.No.7, Animal Husbandry, Dairy Development and Fisheries (Fish.II) Department, dated 16.03.2013.

This Court while admitting the Writ petition on 11.6.2015 directed the respondents not to interfere with the digging activities of the petitioner so long as the provisional certificate is in operation and further the petitioner was directed not to violate any of the conditions stipulated in the provisional registration certificate.

Thereafter Writ petition No.21824 of 2015 is filed by the neighbouring ryots challenging the very provisional registration certificate granted in favour of the petitioner in Writ Petition No. 15593 of 2015 as contrary to G.O.Ms.No. 7, dated 16.3.2013.

Both the Writ Petitions have been taken up for consideration and disposal with the consent of the parties on either side.

Provisional Registration Certificate was granted on 06.02.2015 in respect of the aforesaid land in favour of the petitioner in Writ petition No. 15593 of 2015. During the period of provisional registration in force and operation, the person in whose favour it was granted was directed to do only the following acts/works.

“ During the period of registration:

- a) The farmer should not make major and/or fundamental changes in layout, design etc., unless prior approval of the DLC is obtained.
- b) The farmer is permitted to carry out repairs, maintenance works and also any minor changes or adjustments required in view of changes in farming practices, introduction of new species etc., without altering the fundamental design.
- c) Any addition of culture area to the existing registered farm area shall be treated as a new pond and the farmer has to apply afresh for the registration of the new area separately. However, reduction of culture area or capacity does not need any separate approval.”

A reading of the above conditions stipulated in the provisional registration certificate indicate that the persons in whose favour provisional registration was issued should not carryout any

aquaculture activities. After issuance of provisional registration, a separate application has to be filed for issuance of final registration and the District Level Committee appointed for the said purpose under G.O.Ms.No.7, dated 16.3.2013 has to consider such application in terms of the procedure incorporated in the said Government Order. One of the conditions which the District Level Committee should see is that there should be a minimum of three meters distance between the fresh water aquaculture farm and neighbouring agricultural lands; that the owner or lessee of the aquaculture farm should construct and maintain a seepage channel between the fresh water aquaculture farm and the neighbouring agricultural lands and such a seepage channel can be created in the prescribed three meter gap between the farm and the neighbouring agricultural lands; that no fresh water aquaculture farm should be permitted to use water drawn from bore wells except for supplementing the losses from evaporation, seepage etc., and that direct pumping of water from canals, rivers and reservoirs is prohibited. Clause 7.29 of the said Government Order stipulates that objections of the neighboring agriculture lands/adjacent land holders shall be called for by publishing a notice of 15 days in the notice board of the District Fisheries Officer and any objections received thereon would be considered and disposed of by the District Level Committee before registration.

Writ Petition No. 21824 of 2015 as stated supra is filed by the neighbouring land owners challenging the grant of provisional registration on the ground that they have double crop wet lands and that irrigation bode of three yards width is

only the source of irrigation to an ayacut of 300 acres of agricultural lands and an extent of 30 acres of Respondents 6 to 11 in Writ Petition No.21824 of 2015 also forms part and parcel of the said ayacut. It is also stated that they submitted a complaint to the second respondent through 'Prajavani' on 29.9.2014 stating that if the respondents 6 to 11 therein are allowed to dig the fish tank in their 30 acres of agricultural land, water facility would not be sufficient for 300 acres of ayacut and there will also be dearth of drinking water. The said complaint/representation was followed by another representation dated 15.10.2014. It is the case of the petitioners that despite the said representations, the provisional registration was granted in favour respondents 6 to 11.

The learned Counsel for the petitioner in Writ Petition No.15593 of 2015 submits that provisional registration was granted after considering the report of the concerned authorities/4th respondent and that the petitioners in Writ Petition No. 21824 of 2015 should have no grievance in regard thereto.

It is clear from the above facts that final registration is not granted in favour of respondents 6 to 11 in Writ petition No. 21824 of 2015 and the same is yet to be issued by the second respondent therein, i.e. Chairman, District Level Committee. As stated above, objections of the neighbouring agricultural land owners have to be called for before grant of final registration. It is not clear from the averments in the Writ petition No. 15593 of 2015 as to whether the petitioner in the said Writ petition filed

the necessary application for grant of final registration or not. However, if respondents 6 to 11 in Writ Petition No. 21824 of 2015 submitted their application for grant of final registration before the second respondent, the second respondent shall consider the objections raised by the petitioners therein apart from following the procedure laid down in G.O.Ms.No.7, dated 16.3.2013 and dispose of the same in accordance with law. In the meanwhile respondents 2 to 5 in Writ Petition No. 21824 of 2015 shall see that respondents 6 to 11 therein shall confine their activities strictly in accordance with the terms and conditions stipulated in the provisional registration issued on 6.2.2015 in respect of the subject land to the extent of Ac.14.22 cents comprised in Sy.Nos. 21,22/4,26/3,4,5,6,27,28/1,2,4 of Venkatarajapuram village, Ganapavaram Mandal, W.G.District. If the petitioners in Writ Petition No. 21824 of 2015 bring to the notice of the respondents 2 to 4 therein any violations committed by respondents 6 to 11 contrary to the terms and conditions of provisional registration, the official respondents shall take necessary action in accordance with law.

Subject to the above, the Writ Petitions are disposed of. Miscellaneous petitions pending consideration if any in the Writ petitions shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 6th August, 2015.
Msnr_x

