

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

The Hon'ble Sri Justice A.V.Sesha Sai

Writ Petition No.23747 of 2016

Date: 19.07.2016

Between:

Kapu Lakshmi Amma

..Petitioner

and

The Special Tribunal under A.P.Land Grabbing
Prohibition Act, 1982
Ongole, Prakasam District and another

..Respondents

Counsel for the petitioner: Mr.MRS.Srinivas

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The petitioner, who is respondent No.2 in LGOP No.3 of 2010 on the file of the Principal District Court, Ongole, which is constituted as the Special Tribunal under the A.P.Land Grabbing (Prohibition) Act 1982 (hereinafter referred as 'respondent No.1'), filed this Writ Petition by raising the plea that respondent No.1 has no jurisdiction to

entertain the OP filed by respondent No.2 as the property is allegedly situated within the jurisdiction of a minor Gram Panchayat, which is not a part of Markapur Municipality.

In support of his plea, the petitioner has relied upon Sub-Section (3) of Section 1 read with Schedule I of the A.P.Land Grabbing (Prohibition) Act, 1982, as per which the properties situated within the urban agglomerations and Municipalities alone fall within the purview of the said Act. The petitioner further pleaded that when an IA was sought to be filed by him before respondent No.1 by raising the plea that it inherently lacks jurisdiction to try the OP and requesting to decide the same as an issue, the said respondent had refused to entertain the same and returned it across the Bar.

On the admitted facts of the case, it is evident that the OP is pending for the last 10 years.

Mr.MRS.Srinivas, learned Counsel for the petitioners, submitted that the OP is at the stage of trial.

In our opinion, it will be appropriate for respondent No.1 to decide the issue raised by the petitioner relating to jurisdiction.

The learned Counsel submitted that not only that the IA proposed to be filed by the petitioner was returned by respondent No.1 on the Bench itself, the latter has also observed that since a specific plea relating to jurisdiction has not been raised in the counter-affidavit, the same need not be decided while disposing of the OP.

In our view, if what the learned Counsel for the petitioner has stated is correct, this approach of respondent No.1 is not proper. Since the question of jurisdiction goes to the very root of the case, whenever such an issue is raised, even if the same was not formally raised in the pleadings, it is the bounden duty of the Courts or the Tribunals to decide the same. The very fact that the petitioner sought to raise this issue by filing a separate IA itself shows that she is serious in pursuing this plea.

In this view of the matter, while declining to interdict the proceedings pertaining to LGOP No.3 of

2010 pending before respondent No.1, the Writ Petition is disposed of subject to the observations made herein before about consideration of the petitioner's plea of jurisdiction of respondent No.1 along with the other issues in the said LGOP.

As a sequel to disposal of the Writ Petition, WPMP.No.29251 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

—

—

(A.V.Sesha Sai, J)

Dt: 19th July, 2016
lur