

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.35404 OF 2015

DATED:19-01-2016

Between:

Siddareddy Srihari Reddy ... Petitioner

And

The State of Andhra Pradesh

Rep. by its Principal Secretary

Panchayat Raj Department

Secretariat Building

Hyderabad

and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Ch.Ravinder

COUNSEL FOR RESPONDENT NO.1: A.G.P. for Panchayat Raj (AP)

COUNSEL FOR RESPONDENT NOS.2 and 4: A.G.P. for Cooperation (AP)

COUNSEL FOR RESPONDENT NO.3: A.G.P. for Revenue (AP)

COUNSEL FOR RESPONDENT NO.5: Mr. Seshadri Golla

COUNSEL FOR RESPONDENT NO.6: Smt. Bobba Vijayalakshmi

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to declare the inaction of respondent Nos.2 to 5 in taking action on the petitioner's representation dt.19.10.2015 regarding unauthorized construction of godown by respondent No.6, at Inamadugu Village, Kovur Mandal, SPSR Nellore District, as illegal and arbitrary.

At the outset, it needs to be observed that the petitioner has not explained his locus in filing this writ petition. He has failed to indicate as to whether any of his personal

interests are affected by construction of the godown by respondent No.6 and it is also not his pleaded case that he is espousing the cause of the public. Though this Court is not satisfied with the locus of the petitioner, since it has come to light that respondent No.6 is proceeding with the construction of godown without obtaining permission under the Andhra Pradesh Gram Panchayat Land Development (Layout and Building) Rules, 2002 (for short, 'the Rules'), notified vide G.O. Ms. No.67, dt.26.02.2002, this Court cannot throw away the writ petition by ignoring the fact that an unauthorized construction is being undertaken, albeit for a bona fide purpose.

It is the complaint of the petitioner that in the midst of the village respondent No.6 has been constructing a godown without permission and no action on his representation is taken by respondent No.5. The petitioner further alleged that the land was not converted from agricultural use to non-agricultural use.

In the counter affidavit filed by respondent No.5 it is *inter alia* averred that in the letter dt.14.9.2015 sent by the District Panchayat Officer, Nellore, he has stated that as per G.O. Ms. No.67, dt.26.02.2002, no permissions are required for constructions undertaken by the government authorities and as such, no action has been taken on the representation of the petitioner.

In the counter affidavit of the President of respondent No.6, he has pleaded that Inamadugu Primary Agricultural Cooperative Society has purchased Ac.2.03 cents in Sy. No.427 of Inamadugu Village, Kovur Mandal, on 02.9.1965, wherein a rice mill was constructed after obtaining permission from respondent No.5 and that as the land was put to non-agriculture use in the year 1987 itself, the question of permission for conversion from agriculture to non-agriculture purpose did not arise. It is further stated that Inamadugu Primary Agricultural Cooperative Society got merged with respondent No.6 society in the year 2005, that the area of operation of the society was extended to the entire Kovur Mandal consisting of 10 revenue villages with 16490 members, that the society is doing non-credit business like fertilizers, seeds etc., for providing better service to its members and to farmers and that it also makes paddy procurement. That the Society is having its own land admeasuring Ac.0.25 cents and Ac.2.03 cents in Inamadugu Village, which is convenient and feasible for the farmers to store their agricultural produce and that therefore it has felt desirable to construct the godown over the said land. It is further averred that respondent No.3 has sanctioned agricultural godown, vide proceedings

dt.13.2.2014, and the said project is a flagship programme of the Government of India with 100% grant under the State Plan Scheme, the object of which is to achieve production growth, creation of infrastructure and assets, and promotion of special schemes. That the State Level Sanction Committee has sanctioned Rs.11.75 lakhs for construction of agricultural godowns to Primary Agricultural Cooperative Societies, to be implemented through the Cooperative Department and that an estimate was prepared for Rs.45.00 lakhs for the godown to be constructed in the said site of the society. It is further averred that with reference to the complaint of the petitioner, respondent No.3 has addressed a letter to respondent No.2 on 28.09.2015, wherein he has informed that as per G.O. Ms. No.67, dt.26.02.2002, exemption is given for approval of plans for the works/buildings constructed by the district administration and hence the godown construction may go on as there is no objection in terms of the said G.O. and that respondent No.5 was informed of the same as early as 14.09.2015 by the District Panchayat Office.

At the hearing, the learned Assistant Government Pleader for Panchayat Raj (AP) placed before the Court the Rules, notified vide G.O. Ms. No.67, dt.26.02.2002. Rule 15(1) of the Rules reads as under:

*“15. Exempted Buildings:*

*(1) The following operational construction of the Government whether temporary or permanent, which is necessary for the operation, maintenance, development or execution of any of the following services, are exempted from the purview of these rules:*

*(a) Railways;*

*(b) National Highways, State Highways and Major District Roads;*

*(c) Works undertaken by the District Administration /Zilla Praja Parishad/Mandal Praja Parishad /Gram Panchayat;*

*(d) Waterways;*

*(e) Ports;*

*(f) Airways and Aerodromes;*

*(g) Defence;*

*(h) Any other service which the government may declare to be a public utility service from time to time for the purpose of this clause;”*

The learned Assistant Government Pleader for Panchayat Raj as well as Smt. Bobba Vijayalakshmi, learned counsel for respondent No.6, have relied upon

clause (c) of Rule 15(1) of the Rules, which include the works undertaken by the district administration, in support of their submission that the godown being constructed by respondent No.6 is exempted from permission under the Rules. Smt. Bobba Vijayalakshmi has also relied upon clause (h) of Rule 15(1) of the Rules.

On a plain reading of clause (c) of Rule 15(1), this Court is of the opinion that respondent No.6 being only a cooperative society cannot be treated as a part of district administration. In the absence of declaration by the Government that the service undertaken by respondent No.6 is a public utility service, the building construction undertaken by it does not fall under clause (h).

As the official respondents appear to be under a misconception that the construction being undertaken by respondent No.6 falls under Rule 15(1) of the Rules, respondent No.6 has not applied for building permission. As this construction does not fall under Rule 15(1) of the Rules, which exempts buildings from obtaining building permission, it cannot proceed with construction without obtaining building permission.

In this view of the matter, respondent No.6 is permitted to make an application for building permission to respondent No.5 within four weeks from the date of receipt of this order. Within four weeks thereafter, respondent No.5 shall consider and take a decision on such application, and communicate the same to respondent No.6. Till this process is completed, respondent No.6 shall not carry on further work of construction of the godown.

Subject to the above directions, the writ petition is disposed of.

As a sequel to dismissal of the writ petition, W.P.M.P. No.45494 of 2015 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

19-01-2016

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