

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO

PIL No. 191 OF 2015

28-03-2016

Between:

Vemula Srinivasulu

... Petitioner

And

The State of Andhra Pradesh, rep., by its Secretary, Irrigation and
Command Area Development Department, Secretariat, Hyderabad
and others

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO
PIL No. 191 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the parties.

This public interest litigation (PIL) seeks direction to the respondents to see that the water body in Sy.No.377 to the extent of Acs.17.18 cents (Oteru Cheruvu) situated at Avilala Village, Tirupati Rural Mandal, Chittoor District is maintained and protected without being converted into house plots/sites or any other commercial activity.

The 7th respondent has raised a dispute regarding status of the land based upon revenue record and some old orders of the Government. We do not propose to examine the record and record any finding as to the status of the land. The official respondents filed counter affidavit dated 26-08-2015 and in paragraphs 4 and 5 therein, have stated thus:

“It is submitted that, the subject land in S.No.377 is classified as “Government Dry” and is an unoccupied land and i.e, anaadheenam land during survey settlement operations and was published in the year 1916 by the then British Government. It was clearly furnished the categories of the land in the descriptive memoir of Resurvey Settlement Register of Avilala village and is binding. Later on inspection by the then Sub Collector, Chandragiri the land was since receiving the water and being a water spread area merged with the tank existing in the adjacent S.No.376 the classification of the subject land in S.No.377 was also changed as tank poramboke on dt.9-8-1925 vide Dis.887/24.

It is further submitted that, the land has been subdivided in recent time while a part of land is required for formation of National Highway for public purpose and in the

interest of public. At the time of formation of Renigunta – Chandragiri, Tirupati bye pass road in the year 2003-2004, the land in S.No.377 was sub-divided and denoted as S.No.377/1 measuring 7.53 acres Tank, S.No.377/2 measuring 3.95 acres is classified as NH Road and S.No.377/3 measuring 5.70 acres is classified as Tank and is being maintained.”

From the contents of the counter affidavit, it is clear that the official respondents as on today claim that the land in dispute is a water body. In view thereof, on last occasion, we had directed the 7th respondent to file affidavit/undertaking stating that he shall not make any construction whatsoever in the land in dispute without obtaining statutory permissions from the concerned authorities. The 7th respondent has accordingly filed affidavit/undertaking dated 20-03-2016. Paragraph 2 of the affidavit reads thus:

“I submit that on 14-03-2016 during the hearing of the PIL, this Hon’ble Court was pleased to direct me to file an undertaking that I should obtain all the statutory permissions before making any construction in the land purchased by me in Sy.No.377 of Avilala Village, Tirupati Rural Mandal, Chittoor District.

Accordingly in obedience of this Hon’ble Court directions, I am filing this affidavit undertaking that, unless I obtain statutory permissions from the respective statutory authorities, I will not make any construction in my land i.e. an extent of Ac.1.00 in Sy.No. 377 of Avilala village purchased by me under a sale deed dt. 05.03.2004 executed by Mr. B. Jayarami Reddy and registered as Document No. 1735/2004, O/o. Sri Balaji District Registrar Office, Tirupati.”

The affidavit/undertaking given by the 7th respondent is recorded and accepted. Having regard to over all facts and circumstances of the case and averments made by parties in the proceedings and considering the affidavit/undertaking of the 7th respondent, we are satisfied that the following order shall meet the ends of justice.

“The 7th respondent shall maintain status quo insofar as the land in dispute is concerned. In other words, the 7th respondent shall not make any development in the land or change nature of the land. It

is open to the 7th respondent to seek necessary permissions, for raising construction in the said land, from the concerned authority, and if the 7th respondent seeks such permission, the concerned authorities shall examine his application on merits in accordance with law and unless they are satisfied that the land in question is not a water body, may proceed to pass appropriate order on the application. It is open to the 7th respondent to place material, as he deems fit and proper before the concerned authority in support of his case.

It is once again made clear that the 7th respondent shall not make any construction in the land in question without obtaining permissions from the concerned authorities. We make it clear that we have not expressed any opinion on merits of the case and the concerned authority shall take decision in accordance with law. This order shall not preclude the 7th respondent from approaching civil Court, if he so desires and advised, to seek appropriate relief/declaration in respect of the land in question.”

With these observations, PIL is disposed of.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

P. NAVEEN RAO, J

28-03-2016

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