

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

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SECOND APPEAL No.311 OF 2009

JUDGMENT:

The defendants in O.S. No.324 of 2002 on the file of Principal Junior Civil Judge, Gudivada, Krishna District, and the appellants in A.S. No.16 of 2007 on the file of Senior Civil Judge, Gudivada, Krishna District, preferred this appeal challenging the concurrent finding of the first appellate court granting mandatory injunction directing to remove bunds formed around plot Nos.1 to 4, which are described in schedule annexed to the plaint and granted permanent injunction restraining the defendants from digging fish tank without prior permission of the concerned authorities.

02. The trial court and the first appellate court recorded fact findings about the failure of the appellants to obtain required permission, to convert the agricultural land into fish tanks. However, Sri Kowturu Vinay Kumar, learned counsel for the appellants, furnished a copy of application which was submitted to the Deputy Director of Fisheries on 31.08.2009 and it is pending for consideration from 2009 onwards.

03. Learned counsel for the appellants requested to pass appropriate orders considering the application for permission dated 31.08.2009 pending with the Deputy Director.

04. Though the appeal is filed in 2009, it is still coming for admission. In view of the submissions made across the Bench, furnishing the copy of application to get permission, it is evident that the appellants did not obtain prior permission in writing to convert the agricultural land into fish tank and directly it supports the contention of the respondents that conversion of the agricultural land into fish tank is without such prior permission it is illegal.

05. Taking into consideration of pendency of the application to get permission dated 31.08.2009 with the Deputy Director of

Fisheries, the Decree passed by the trial court and affirmed by the first appellate court is hereby confirmed. However, granting four months time to get permission in pursuance of the application dated 31.08.2009. Otherwise, the respondents are at liberty to execute the Decree.

06. Accordingly, the second appeal is disposed of. No costs.

07. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 02.08.2016

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