

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.32274 OF 2014

Dated:02.12.2016

Between:

P. Laxmi Devi and others

.. Petitioners

And

The Government of Telangana,
rep., by its Principal Secretary,
I & CAD Department,
Secretariat, Hyderabad and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.32274 OF 2014

ORDER:

This Writ Petition is filed for the following relief:

“.. to issue a writ, order or direction especially one in the nature of writ of mandamus declaring that

- a) action of respondents in marking the full tank level (FTL) of Kapra lake without associating the petitioners and without obtaining their consent is illegal, as the lands of the petitioners were shown as falling within the FTL boundary of Kapra lake.
- b) declare the action of the respondents in depriving petitioners of their right to peacefully use, enjoy and possess their land measuring Acs.92.39 gts. in Sy.No.593 to an extent of Acs.16.23 gts., Survey No.594 to an extent of Acs.14.22 gts., Sy.No.625 to an extent of Ac.0.35 gts., Sy.No.626, to an extent of Ac.1.23 gts., Sy.No.627 to an extent of Ac.1.20 gts., Sy.No.621 to an extent of Ac.19.00 gts., Sy.No.632 to an extent of Acs.20.14 gts., Sy.No.633 to an extent of Acs.3.38 gts., and Sy.No.634 to an extent of Acs.4.08 gts., of Kapra village.
- c) declare that petitioners are entitled to fair compensation if (in case) the respondents are bent upon treating the petitioners land as falling within in FTL of Kapra lake.
- d) declare that petitioners are entitled to be allotted alternative land (of equal or fair value) in case payment of compensation in money is not possible.
- e) and pass such order or orders as this Hon'ble Court may deemed fit and proper in the circumstances of the case.”

2. Learned counsel for the petitioners filed letter dated 03.11.2016 contending that the subject matter of the Writ Petition is squarely covered by the Division Bench decision of this Court in W.P.No.24260 of 2008 and batch, dated 11.07.2016.

3. The subject matter of the Writ Petition is concerning the occupation/possession of private lands, which are falling within the Full Tank Level (FTL) of Kapra Lake. In the above batch of Writ Petitions, the issue for consideration was with regard to

encroachment and shrinking of tank beds and unauthorised/illegal constructions made disturbing the FTL. On consideration of various issues, the Division Bench of this Court disposed of W.P.No.24260 of 2008 and batch on 11.07.2016, with the following directions.

- “(1) The concerned respondents i.e. Greater Hyderabad Municipal Corporation (GHMC); Hyderabad Metropolitan Development Authority (HMDA), Irrigation, and Revenue, shall conduct survey of all lakes/tanks/lands within the limits of GHMC to determine FTL after issuing notice to the petitioners/unofficial respondents or any other person who claim that their lands are within FTL and then, proceed to put up fence, covering the FTL. Mr.Bhaskar Reddy, learned Special Government Pleader, submits that survey would be conducted by the Assistant Director, Survey and Settlements. His statement is accepted.
- (2) It is open to the official respondents, then to take appropriate steps to erect fence and to take action, in accordance with law, for removal of encroachments, if any, in FTL area of the lakes.
- (3) We hope and trust that the official respondents shall complete this exercise on or before 31.12.2016.
- (4) If the concerned official respondents find that the lands fall within FTL, are private patta lands, they may give an intimation to such land owners and take further steps for acquiring those lands and for payment of compensation in accordance with law. It is needless to mention that the concerned authority shall complete acquisition proceedings and payment of compensation expeditiously. Parties have agreed that pending acquisition, they shall not have any objection for fencing FTL and even for removal of structures, if any, therein, after following due process of law and subject to their right to claim compensation in accordance with law.

- (5) If right, title and interest of the petitioners in the lands within FTL is disputed/denied by the concerned official respondents, the District Collector shall inform the same to the petitioners/private respondents or any other person before the end of February, 2017 and in that eventuality, it is open to all such petitioners/private individuals to approach civil Court seeking declaration of their title. If the petitioners/private individuals succeed in establishing their title over the lands covered by FTL, the official respondents, subject to their right to appeal, shall take steps to pay compensation to all such petitioners/private individuals in accordance with law.
- (6) Under any circumstances, the petitioners or other individuals/encroachers shall not obstruct the concerned official respondent from erecting fence covering the FTL after the exercise of survey is complete and subject to their right to seek compensation, as aforementioned.
- (7) While passing this order, we shall not be understood to have examined rights of the petitioners or private individuals or unofficial respondents.
- (8) We make it clear that the HMDA shall act as nodal authority for giving effect to this order.
- (9) The Pollution Control Board shall take all steps to prevent pollution in the lakes within the jurisdiction of HMDA. It is needless to mention that once FTL is determined, no construction shall be allowed in that area. This, however, shall not preclude the concerned authorities from strengthening the bund and development of pipeline by sewerage board within FTL area for preventing storm water in the lakes.”

4. In view of the directions issued in the said batch cases, with regard to the properties of the petitioners, it is expected that the respondents shall follow the same directions with reference to Kapra Lake.

5. Observing the same, the Writ Petition is accordingly disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:02.12.2016

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