

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

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Public Interest Litigation No.349 of 2015

Date:18.04.2016

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Between:

Kalla Sanjeeva Rao,
Kotabommali village,
Srikakulam District.

.....Petitioner

And

State of Andhra Pradesh,
Represented by its Principal Secretary,
Revenue Department,
Hyderabad and others.

... Respondents

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AND
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Public Interest Litigation No.349 of 2015

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

Heard Mr. P. Veera Reddy, learned Senior Counsel for the petitioners; Mr. S. Srinivasa Rao, learned Assistant Government Pleader for respondent Nos.1 to 4 and Mr. Sudheer, learned Government Pleader for Panchayat Raj for respondent No.5.

Petitioner, in the instant P.I.L. seeks the following relief:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, order or direction mostly one which is in the nature of a writ of mandamus, directing the respondents to forthwith evict the encroachers from the tank bed area occupied by them in Survey No.91 of Kotabommali Gram Panchayat, Srikakulam District and to remove all the structures raised therein by declaring the inaction of the Respondents in taking immediate and prompt action to prevent such encroachments and in removal of such encroachment, as illegal, irregular, arbitrary, unjustified, unconstitutional and unsustainable and pass such other order or orders as this Hon'ble Court may deem fit and necessary under the circumstances of the case.”

We have perused counter affidavits and reply affidavit filed by the parties. It is clear from the averments in P.I.L. and affidavits filed by the parties that some private individuals have encroached upon the land, which is a part of the village tank.

We have also perused the letter dated 8.3.2016 issued by Tahsildar, annexed to the reply affidavit filed by the petitioner, which shows that the concerned authority has initiated action against four encroachers by issuing notices. We have also seen the statements made on affidavits, in particular, paragraph-6 of the counter affidavit filed by respondent No. 2. The averments made in paragraph-6 read thus:

“Under the aforementioned facts and circumstances, it is respectfully submitted that to remove the encroachments identified in the tank in question, action has already been initiated and appropriate steps will be taken by the concerned and the encroachers will be evicted. As far as the Tank Bund is concerned, the tank bund has now been strengthened by using the earth excavated while de-silting the tank and upon the said tank bund, gravel road has been laid to provide the transport facility to the public living in the other end of the village who have no road facility at all. There is no encroachment as such in laying the road.”

Having regard to the statements made on affidavits filed by the parties, we find it, *prima facie*, difficult to accept the contention of the petitioner that the Gram Panchayat is constructing road through the land, which is a part of village tank. The record shows that they are constructing the road along the tank bund. Insofar as encroachment made by private individuals is concerned, Mr. S.Srinivasa Rao, learned Assistant Government Pleader appearing for respondent No.2 submits that they will initiate action against all the encroachers, who have allegedly encroached on a part of the land of village tank and shall take the action to its logical conclusion within a period of four months. His statement is recorded and accepted. We hope and trust that the 2nd respondent shall take all necessary steps to remove the encroachment, if any, by private individuals within the time as aforementioned.

With these observations, the Public Interest Litigation is disposed of.

Consequently, pending miscellaneous applications shall also stand closed.

DILIP B. BHOSALE, ACJ

P. NAVEEN RAO, J

18th April, 2016

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