

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT APPEAL Nos. 10 and 11 OF 2016

20.01.2016

WRIT APPEAL No. 10 OF 2016

Between:

I. Venkata Rama Raju,
R/o. Kaikaluru Village & Mandal,
Krishna District, Andhra Pradesh.

... Appellant

And

Nadimipally Murthy Raju,
Kaikaluru Village and Mandal,
Krishna District, and others.

... Respondents

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

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WRIT APPEAL Nos. 10 and 11 OF 2016

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

These writ appeals are directed against the common order dated 15.12.2015 passed in W.P.Nos.4864 of 2015 and 16297 of 2014 filed by respondent No.1/writ petitioner.

In both the writ petitions, the appellant was respondent No.5 and 7 respectively. The prayers in both the writ petitions are similar.

The prayer made in W.P.No.4864 of 2015 reads thus:

“Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the inaction of the 3rd Respondent in removing the constructions made by the 5th Respondent in an extent of Ac.00-09 cents of Government land in Sy.No.39, Kaikaluru Village and Mandal, Krishna District, which is notified as Kolleru Wild Life Sanctuary under G.O.Ms.No.120, Environment, Forest, Science and Technology (For-III) dated 04.10.1999 which constructions are blocking the flow of drainage water from Kaikaluru Village and abutting fish ponds into Polaraju major drain via Rallakodu channel as arbitrary, illegal, unjust, violative of the fundamental rights guaranteed under the Constitution of India, abdication of statutory duty cast on the Respondents under the provisions of the Wild Life (Protection) Act, 1972, violative of the directions issued by this Hon'ble Court as well as in violation of the terms stipulated in the aforesaid G.O. and for issuance of a consequential direction to Respondents 2 to 4 to forthwith remove the said constructions.”

The learned Single Judge disposed of both the writ petitions and issued the following directions:

- (1) disciplinary proceedings be initiated against 3rd respondent by 1st respondent in WP.No.4864 of 2015 for his collusion

with I.V.R. and allowing the structures such as sluice, water sump and motor shed erected by him to continue to remain even after the above G.O was issued notifying KWS;

- (2) the 1st respondent in WP.No.4864 of 2015 shall ensure that sluice, the water sump as well as the motor pump set erected by 3rd respondent are immediately removed and appropriate legal proceedings including prosecution be initiated against I.V.R. for the said activity;
- (3) the 1st respondent in WP.No.4864 of 2015 shall also cause an enquiry to be made into the alleged encroachment by the Writ Petitioner into the land notified under the above G.O. and take action against the Writ Petitioner also, if it is found in such an enquiry that he has also made constructions or indulged in activities prohibited under the above G.O. He shall take the assistance of the District Collector, Krishna District, Machilipatnam and the Revenue and Irrigation Department Officials in this regard;
- (4) the District Collector, Krishna District, Machilipatnam shall also cause an enquiry to be made into the possible collusion by respondent nos.3 to 6 in WP.No.16297 of 2014 with I.V.R. and cause proper proceedings to be initiated against them if it is found that they have a role in permitting I.V.R. to carry on the above activities within the area notified under the above G.O.; and
- (5) the 3rd respondent in WP.No.4864 of 2015 shall personally pay costs of Rs.10,000/- to the Writ Petitioner within a period of two (02) weeks from the date of receipt of a copy of this order.”

Sri V.V. Raghavan, learned counsel holding for

Sri P. Vikram, Advocate on record for the appellant, does not press these appeals and submits that the appellant would be satisfied if all his contentions are kept open insofar as direction to initiate appropriate legal proceedings including prosecution and also to file appropriate proceedings for seeking quashing of F.I.R, if registered against him in pursuance of the direction issued in paragraph 2 of the operative portion of the impugned order.

Sri C.V. Mohan Reddy, learned Senior Counsel appearing for the first respondent/writ petitioner submits that he has no objection for disposing of the appeals with such observations. He, however, submits that all contentions of the writ petitioner be kept open.

In view thereof, we are satisfied that the following order shall meet the ends of justice:

If the official respondents lodge F.I.R against the appellant in pursuance of the common order passed by this Court, and if crime is registered against him, it is open to the appellant to take all remedies as may be available in law for either seeking quashment of the complaint or to defend in the criminal proceedings.

With these observations, the appeals are disposed of.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Date: 20.01.2016
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