

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.23491 OF 2008

ORDER:

Heard Mr.K.Gopal for petitioners and the Assistant Government Pleader (Revenue) for respondents.

The petitioners are residents of Perupalem & K.P.Palem, Villages of Mogaltur Mandal, West Godavari District. They pray for Mandamus declaring the action of respondents in proceeding with the process of granting pattas in CRZ area at Perupalem and Kummarapurugupalem Villages, Mogaltur Mandal, West Godavari District, as illegal, arbitrary, without jurisdiction and unconstitutional. The petitioners pray for a consequential direction restraining the respondents from granting assignment in CRZ area of the villages referred to above.

On 18.09.2007 and 06.10.2008, the petitioners submitted representations in this behalf. One of the grievances in the writ petition is that till date the representations remain unattended.

The petitioners alleged that they are in possession of land available in the CRZ area and have raised plantations by spending physical labour and substantial amounts. According to petitioners, the respondents have no jurisdiction to grant assignment in the land falling within CRZ. The apprehension is that if pattas are granted, the enjoyment of petitioners is affected and that ecological imbalance is also affected.

On 11.11.2008, this Court granted interim direction restraining respondents from granting pattas in CRZ area. The Tahsildar, Mogaltur Manda/4th respondent filed counter affidavit and also a petition to vacate the interim direction. The gist of the counter affidavit is as follows:

“In reply to paras 3 and 4 of the affidavit, it is submitted that the contention is not correct. The petitioner herein encroached about Ac.2-00 in CRZ area. But the encroachment is not since last 50 years. It is only since last three years. The coconut trees in the land also reveals the fact that their age is only three years. As the encroachment to an extent of Ac.0-40 cents was removed, the land will be utilized for public purpose. In this context it is humbly submitted that Perupalem village has been identified by the Tourism Department as a Tourist spot. At the Sea shore of Perupalem, the spot is recently developed as a beautiful beach. Several tourists of East Godavari, West Godavari and Krishna District are preferred to visit Perupalem beach as a picnic spot. During the month of Karteeka Masam, the visitors will be in thousands and in Sundays of the month, the number of tourists will raise up to one lakh, and they will come to the beach to Perform Holy Sea Bath. Controlling of the above tourists is becoming beyond control for the Officials of Revenue and Police in those particular days. As the beach area is very small and the public floating is in huge, some of the tourists prefer to go into the depth of the sea to perform the bath. During those days, some of the tourists are also missing while they are taking bath in the sea. The public are also making agitations that missing of such persons is due to failure of Government. Further due to the encroachments on the sea shore by private persons, the lady tourists are also facing difficulty to change their dresses after bath, for want of privacy rooms etc. Hence, it is decided to spread the beach area from existing 1 KM to an extent of about 3 KMs to avoid accidents and also to provide refresh rooms to visitors, particularly to female tourists to change their dresses in privacy. Accordingly action has already been taken to remove the encroachments up to 200 metres from sea water and to provide refresh rooms with the

help of local Grama Panchayats. Therefore, an extent of Ac.0-40 cents has been taken up for eviction out of Ac.2-00 Cts in the interest of public. Though the other encroachers vacated their lands voluntarily, the petitioners alone filed this case by suppressing the facts. It is humbly submitted that the action taken is only in the interest of public.

In reply to para 5 of the affidavit, it is submitted that the contention is not correct. The proposed eviction is only to develop the beach. In this case there is no private interest to the respondents.

In reply to paras 6 and 7 of the affidavit, it is submitted that the contention is not correct. As explained above, the encroachments have been removed only for development of beach and to protect the public lives from sea accidents. The CRZ is not a private property. No constructions have been proposed violating the provisions laid down in CRZ Rules. The Government is also against for such constructions. The entire area evicted is free from encroachment are also free from any constructions. Now the public is also very happy as they are having sufficient space to visit the sea shore. Due to removal of encroachments which are very nearer to sea water, the beach area was spread to a large extent. As a result, there is no scope to gather the public at one spot to perform sea bath and they will spread throughout the beach".

From the above, it is clear that the respondents, in fact, are taking steps to protect the CRZ and hence, no direction need to be issued at the instance of petitioners. While disagreeing with the prayer of petitioners for granting any relief, it is made clear that the respondents shall not undertake any activity in CRZ area, except in accordance with the provisions of Environment (Protection) Act.

The writ petition is dismissed with the above observations. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, stand closed.

28th August, 2017

Lrkm

S.V.BHATT, J



