

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

WRIT APPEAL NO.1143 OF 2017

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal is preferred by the fourth respondent in WP.No.19622 of 2017 aggrieved by the order dated 16.06.2017. The first respondent-writ petitioner filed the said Writ Petition seeking a writ of mandamus to declare the action of the official respondents, in permitting the appellant-fourth respondent to dig a fresh water aquaculture fish pond without obtaining permission under G.O.Ms.No.7 dated 16.03.2013, as arbitrary and illegal.

In the order under appeal, the learned Single Judge has recorded that written instructions were received by the learned Government Pleader that they did not accord any permission to the fourth respondent for digging any fresh water aquaculture fish or prawn pond in the extents mentioned in the Writ Petition prayer; and they were going to take recourse not to allow him without permission, if at all applied.

Sri N.Jayasurya, learned counsel for the appellant-fourth respondent, would contend, not without justification, that the said order was passed at the stage of admission without the appellant-fourth respondent even being put on notice, much less even being given an opportunity of being

heard. On the other hand, Sri G.Simhadri, learned counsel for the writ petitioner, would submit that the learned Single Judge has merely recorded the submission of the learned Government Pleader that no permission would be granted to the appellant-fourth respondent to dig any fresh water aquaculture fish or prawn pond; and as it is not in dispute that permission is required before lands are dug up for the purposes of a fresh water aquaculture fish or prawn pond, the learned Single Judge cannot be faulted in merely recording the submission of the learned Government Pleader in this regard.

Sri N.Jayasurya, learned counsel for the appellant-fourth respondent, would submit that the appellant has already filed an application for grant of permission as early as on 31.03.2017 to further dig the existing fresh water aquaculture fish pond; and the respondents be directed to consider the said application at an early date. Any grievance which the appellant-fourth respondent may have, regarding the inaction of the official respondents in considering the application of the appellant, can only be agitated in independent proceedings.

Suffice it to make it clear that the order under appeal shall not preclude the official respondents from considering the appellant's application for grant of permission strictly in accordance with law, and in terms of the orders issued by the Government in this regard from time to time. Needless to

state that, without obtaining written permission from the authorities concerned, the appellant-fourth respondent shall not be permitted to dig any fresh water aquaculture fish or prawn pond in the subject land.

The Writ Appeal stands disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

17th August 2017
RRB

