

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.29306 of 2017

ORDER:

Heard learned counsel for the petitioners, learned Government Pleader for Revenue (A.P) for respondent Nos.1 to 4 and learned Government Pleader for Mines and Geology (A.P) for respondent No.5.

2. In the present writ petition, challenge is to the alleged inaction on the part of respondent Nos.3 to 5 and allowing respondent No.6 to de-cast the sand in the land admeasuring Ac.5-30 cents out of Ac.18-72 cents in survey No.354, situated at Munagodu Village, Narasaraopet Mandal, Guntur District.

3. The sum and substance of the case of the petitioners is that he is the absolute owner and title holder of the subject land and the official respondents herein are permitting respondent No.6 to de-cast the sand in the subject land and the said action on the part of the unofficial respondents is highly arbitrary and illegal.

4. When the matter is taken up, written instructions furnished by respondent No.5 have been placed on record by the learned Government Pleader for Mines. Said written instructions read as under:

“It is submitted that on 08-04-2017 Sri N.Harish Verma, R/o. Secunderabad has informed that, he is the pattadar of the land over an extent of 05-30 Acres in S.No.354 of Munugodu Village, Amaravathi Mandal, Guntur District. His land filled with sand and due to heavy rains he is unable to cultivate the subject land. Hence requested to permit him to de-cast the sand accumulated in his patta land so as to cultivate the land. The District Collector, Guntur has instructed this respondent to examine and put up.

This respondent vide letter No.1718/S/TP/2017, dated 11.04.2017 while forwarding the request letter of the individual has requested the Tahasildar, Amaravathi to furnish the clarification and No Objection Certificate.

The Tahasildar, Amaravathi vide his letter Rc.No.415/2007-A, dated 19.04.2017 has informed that, the subject land as classified as patta land and as per RSR that name of Sri Yaddanapud Pullaiah and 3 others as pattadars and intimated that the land was under enjoyment of the descendants of Sri Nadimpally Harish Varma and issued the No Objection for removal of sand from patta land.

The Mandal Agriculture Officer, Amaravathi informed that the subject land was fit for cultivation only after the removal of the sand.

The Executive Engineer, K.C. Division, Vijayawada vide letter No.CB/Supdt/MC/17, dt.19-04-2017 has informed that there is no Objection in RC points of view to lift the ordinary sand from the patta land to the specified the extent issued by the Tahsildar, Amaravati.

The Executive Engineer, K.C. Division, Vijayawada vide letter No.CB/Supdt/MC/526, dt.16-05-2017 informed that there is no objection to permit the path upto river margin land in RC points of view in the village limits of Munugodu and to utilise the existing the ramp in the Munugodu Village for transportation of ordinary sand from the subject patta land for a period of 180 days w.e.f 19-04-2017 to 15-10-2017 for a quantity of 21,499 Cbm of Sand.

The Technical staff have inspected the subject area on 19-04-2017 and reported that the sand is available in the subject patta land and recommended for a quantity of 21,499 Cbm in favour of Sri N.Harish Varma.

The Collector & District Magistrate, Guntur has accorded permission in favour of Sri N.Harish Varma for De-casting the sand over an extent of 5.30 Acres in Sy.No.354 of Munugodu Village, Amaravathi Mandal, Guntur District for a period of 180 days w.e.f from 19-04-2017 to 15-10-2017 or for a quantity of

21,499 Cbm whichever is earlier. As on date the pattadar is conducting the decasting of sand in the subject area.”

5. A reading of the writ affidavit filed in support of the writ petition candidly discloses that the petitioners are claiming title to the subject property and asking for protection from this Court under Article 226 of the Constitution of India. In the considered opinion of this Court, the respective civil rights of the parties cannot be decided by this Court under Article 226 of the Constitution of India. Therefore, this Court is not inclined to entertain the present writ petition.

6. Accordingly, the writ petition is dismissed, with liberty to the petitioners to avail appropriate remedies available to them under law. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

Date: 31.08.2017
TJMR

A.V. SESA SAI, J

