

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 37362 OF 2017

ORDER:

This writ petition is filed challenging the proceedings of the 2nd respondent dated 02.11.2017 granting registration in favour of 6th respondent for digging the fish tank to an extent of Acs.15.59 cents in Bethapudi Village, Bhimavaram Mandal, West Godavari District.

Heard learned counsel for the petitioners and learned Assistant Government Pleader for Fisheries for respondents 1 to 3.

Learned counsel for the petitioner submits that though the petitioners have sent objections on 20.10.2017 and also on 01.11.2017, without considering the same, impugned registration is granted in favour of the 6th respondent, which is in violation of guidelines issued in G.O.Ms.No.15, Animal Husbandry, Dairy Development and Fisheries (Fish) Department, dated 26.05.2015. He submits that the endorsement on the letter dated shows that the Grampanchayth Secretary received letter dated 05.10.2017 addressed by the 3rd respondent, on 23.10.2017 and same was published on the notice board of the Gram Panchayat on 23.10.2017 only. He submits that as per amended guideline No.7 of G.O.Ms.No.15, which provides for 15 days limitation for receiving objections from the adjacent land owners, as

such, from 23.10.2017, the 15 days limitation will be ending by 07.11.2017. He submits that the petitioners made objections on 01.11.2017, but the impugned registration was done in favour of the 6th respondent on 02.11.2017.

On the other hand, learned Assistant Government Pleader for Fisheries submits that notice dated 05.10.2017 is received by the Gram Panchayat on 08.10.2017 and objections have to be filed within 15 days and that objections will be considered at the time of granting final registration.

Sri Y.V.Ravi Prasad, learned Senior Counsel appearing on behalf of 6th respondent submits that actually, all objections will be considered by the authorities at the time of granting final registration, as such, granting of provisional registration in favour of 6th respondent cannot be faulted and that provisional registration does not confer any rights on the 6th respondent except permitting for digging of the tanks.

In view of above rival contentions, now, it is to be seen that G.O.Ms.No.7, dated 16.03.2013 is amended vide G.O.Ms.No.15, dated 26.05.2015, incorporating a protection clause in favour of the adjacent and neighbouring farmers/land holders, which reads as follows:

“7. Objections of the neighbouring agriculture lands/adjacent land holders shall be called for by publishing a notice of 15 days in the notice board of the concerned Gram Panchayat Office and at statutory places like the District Fisheries Officers and then any objections received will be considered and disposed of by the District Level Committee before Registration.”

A perusal of the said provision goes to show that objections received will be considered and disposed of by the District Level Committee before granting registration. It is not very clear whether it is final registration or provisional registration and whether objections have to be considered by the District Level Committee before granting provisional registration or final registration. The very object of consideration of objections by the District Level Committee is to see that before granting registration, if objections of neighbouring land owners/farmers are considered, there will not be any occasion for them to suffer losses. Though the words 'before registration' are used in G.O.Ms.No.15, dated 26.05.2015, this Court is of the view that it is better if objections are considered before granting provisional registration because, if any person is granted provisional registration and he is permitted to dig the tank, and if final registration is not granted in his favour, then he will be put to losses. Therefore, I am of the considered opinion that objections of the petitioners shall be considered before granting provisional registration. But, in the present case, since already provisional registration is granted in favour of the 6th respondent, this Court feels that objections filed by the petitioners shall be considered before granting any final registration by the District Level Committees.

In view of above facts and circumstances, the concerned District Level Committee/competent authority shall consider the objections of the petitioners before granting final registration in favour of 6th respondent, in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. Till then, the 6th respondent shall not take up any activity in respect of the subject property.

With the above direction, this writ petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand disposed of.

08-11-2017
kvs



A.RAJASHEKER REDDY, J

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