

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.42566 of 2017

ORDER:

This Writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“...to issue a Writ or order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the Respondents herein particularly Respondents No. 2 in issuing the notice vide Meekosam Complaint No. 20175-7737344 dated 06.10.2017 without causing any enquiry and declaring that the petitioner is cultivating prawn in the tank accorded vide Registration No. EA011700027330 dated 13.04.2017 at Survey No. 80/1C, Machipuripalem Village, Veeravasaram Mandal, West Godavari District as nothing but illegal, arbitrary, erroneous and violative of Article 21 and 300A of Constitution of the India and consequently direct the Respondents not to interfere with the aquaculture tank belongs to the Petitioner situated at Survey No.80/1C, Machipuripalem Village, Veeravasaram Mandal, West Godavari District and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of this case.”

2. I have heard the submissions of learned counsel for the petitioner and of learned Government Pleader for Fisheries appearing for respondents 1 and 2.

3. As this Court is inclined to dispose of the writ petition at the stage of admission, there is no need to issue notice to the third respondent.

4. I have perused material record.

5. The case and the submissions made on behalf of the petitioner are that: The petitioner is having a licence for doing fish culture in his land in Survey No.80/1C, Machipuripalem Village, Veeravasaram Mandal, West Godavari District, and that the petitioner is cultivating fish in the tank in the said land as per the permission, dated 13.04.2017, and that while so, a notice was issued, on 16.08.2017, to the wife of the petitioner in respect of the

said tank and that the wife of the petitioner submitted her explanation and that thereafter, the present impugned notice was issued by the Fisheries Development Officer, Veeravasaram i.e., the second respondent, *inter alia* stating that on the complaint of the third respondent, the neighbouring land owner of the petitioner, an enquiry was caused and it was noticed that instead of doing fresh fish culture, the petitioner started doing prawn culture with salt water and is releasing salt water to the neighbours' land and damaging their lands and that despite notice, no explanation was submitted and hence, the impugned notice was issued as per the recommendation made by the District Level Committee for taking action.'

6. Learned counsel for the petitioner mainly submits that notice was not issued to the petitioner and that the petitioner is accorded permission and his name was also registered for doing fish culture and therefore, the action, if any, taken against the petitioner without issuing any notice to him, is illegal and arbitrary and that the third respondent, who has given the complaint, has already withdrawn her complaint by addressing a letter to the Tahsildar, Veeravasaram Mandal, and hence, the writ petition is filed aggrieved of the proposed action of respondents 1 and 2.

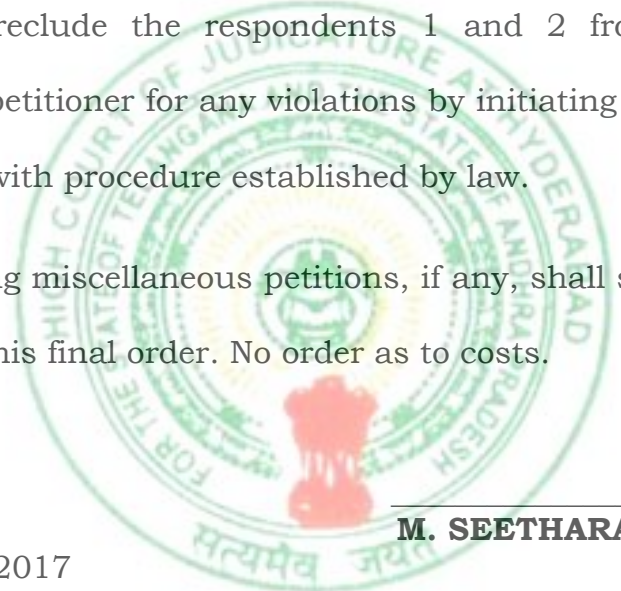
7. Learned Government Pleader for Fisheries, on instructions, would submit that on a complaint given by the unofficial third respondent, an inspection was made and it was noticed that the petitioner violated the guidelines in the relevant Government Orders and that no permission is accorded to the petitioner to carry out L. Vannamel Shrimp farming but he is doing the said

farming without any permission in that regard and therefore, the action initiated after issuance of a notice is sustainable and the writ petition is liable for dismissal.

8. Having regard to the admitted fact that no notice was issued to the petitioner before initiating the impugned action, this Court finds that the request of the petitioner in this writ petition deserves consideration.

9. Having regard to the facts and submissions, the writ petition is allowed as prayed for. However, it is made clear that this order shall not preclude the respondents 1 and 2 from proceeding against the petitioner for any violations by initiating fresh action in accordance with procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



M. SEETHARAMA MURTI, J

Date: 20.12.2017

Note: Issue CC tomorrow

B/o

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