

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.5271 OF 2007

ORDER:

This writ petition is filed being aggrieved by the action of the respondents in granting house site pattas in Survey Nos.195 and 133 of Nalagandla Village, Serilingampally Mandal, which come under water spread area of Mannevani Kunta.

2. The case of the petitioners is that they are agriculturists and are permanent residents of Nalagandla Village, Serilingampally Mandal, Ranga Reddy District. There is an irrigation tank called 'Mannevani Kunta' situated in Survey No.133. The lands of the petitioners are situated in Survey Nos.134, 135 & 136, which are cultivating lands and drawing water from Mannevani Kunta. Though Mannevani Kunta is located in Survey No.133, the water spread area is spread over to Survey No.195, which is a Government poramboke land of an extent of Ac.14.00. The said Kunta is situated about 30 to 35 Kms. away from Hyderabad city and the local leaders of the village are tried to occupy the land in Survey No.195 by creating false and bogus house site pattas in benami names and tried to fill up the tank bed with mud. The petitioners had taken strong objection for filling up the tank bed and requested the authorities to cancel the lay out granted in Survey No.195. The petitioners also made a

representation to the respondents to protect the water bed, so that the water stored in the tank can be used for agricultural purposes by preventing the encroachments. The petitioners earlier filed Writ Petition No.35976 of 1998 to direct the respondents to protect the land in Survey No.133 and part of Survey No.195 from encroachments by the land grabbers, which is part of Mannevani Kunta. In view of the counter filed by the respondents therein, this Court directed the respondents therein not to allow any conversion of land for any other purpose except retaining it as water source area. In spite of the orders of this Court, the respondents are not taking steps to protect the land in Survey No.133 and 195. It is further stated that as per Rule 27 of the Telangana Area Land Revenue Rules, 1951, granting of house site pattas in the tank bed area, is totally prohibited. Hence, the petitioners prayed that the inaction of the respondents is illegal and arbitrary.

3. The counter-affidavit is filed on behalf of the respondents stating that there is no cultivation under Mannevani Kunta, which is located in Survey No.133 admeasuring Ac.1.18 gts. of Nallagandla Village of Serilingampally Mandal. The ayacut lands under the Kunta are fallow. The FTL of Mannevani Kunta is not yet fixed by the Irrigation Department to know the lands which are under submergible under Mannevani Kunta. It is further stated that the land in Survey No.195 measuring Ac.14.34 gts. of

Nallagandla Village is classified as 'Gairan Sarkari'. The house site pattas numbering 620 were issued to the weaker sections of people in Survey No.195 of Nallagandla Village. Later on, it is noticed that 42 plots in an extent of 60 Sq. yards each out of the land in Survey No.195 is covered by graveyard and water bed area. No plan was made on the ground and the possession of the plots was not handed over to the beneficiaries. A notification dated 21.08.2001 was also published in the village to protect the water bed area of the Mannevani Kunta of Nallagandla Village by treating the 42 plots area as FTL of Mannevani Kunta located in Survey No.133 of Nallagandla Village. The Additional Mandal Revenue Inspector, Serilingampally has already been directed on 12.01.2007 to inspect Mannevani Kunta in Survey No.133 of Nallagandla Village and initiate immediate action on the illegal encroachments within the Shikam and FTL of Mannevani Kunta. The Executive Engineer, Irrigation Department has been requested through the Letter No.B/1335/2000, dated 17.02.2007 to fix up the FTL of Mannevani Kunta to safeguard the lands within the FTL. The house site pattas granted in Survey No.195 is not a hindrance to flow of tank water. The respondents are taking all possible steps to prevent the encroachment of the tank bed area.

4. Sri N.Ashok Kumar, learned counsel for the petitioners, submits that the petitioners are agriculturists and are permanent residents of Nalagandla Village, Serilingampally

Mandal, Ranga Reddy District. The petitioners are cultivating the lands and drawing water from Mannevani Kunta situated in Survey No.133 and the water is spread over to the land in Survey No.195 of Nalagandla Village. The local leaders of the village are trying to occupy the land in Survey No.195 by creating false and bogus house site pattas in benami names and are tried to fill up the tank bed with mud, for which the petitioners objected as they are deprived of their cultivation. In spite of several representations, the respondents are not taking steps to protect the tank. He further contended that the action of the respondents is violative of Articles 21 and 48-A of the Constitution of India and relied on a judgment of the Hon'ble Supreme Court in the case of **Association for Environment Protection Vs. State of Kerala and others** reported in (2013) 7 S.C.C. 226. The learned counsel also relied on a judgment of the Hon'ble Supreme Court in the case of **Hinch Lal Tiwari Vs. Kamala Devi and others**¹.

5. In the facts and circumstances of the case, this Court found that the land in Survey No.133 is a Mannevani Kunta water spread area and part of Survey No.195 of Nallagandla Village comes within FTL of Mannevani Kunta tank. It appears that some illegal encroachments are being made by the local political leaders by filling up the tank bed area under the guise of the house site pattas and they are selling

¹ (2001) 6 S.C.C. 496

the lands situated in Survey No.195 and 133 by laying illegal layouts.

6. The Hon'ble Supreme Court in ***Hinch Lal Tiwari's case*** (1 supra) observed that no portion of partly dried up pond can be allotted as a housing site for any category of person and the Government including revenue authorities are duty-bound to clean and develop the ponds which are dried up and fallen into disuse, so that ecological disaster may be prevented and a better environment provided to people at large. It is also observed that the forests, tanks, ponds, hillocks and mountains, etc. are nature's bounty and they are needed to be protected for ecological balance.

7. Accordingly, the respondents are directed to protect the land in Survey No.133 and 195 part of water spread area of Mannevani Kunta of Nallagandla Village, Serilingampally Mandal.

8. Hence, the Writ Petition is disposed of. No order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE M.GANGA RAO

13-04-2018

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