

HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.Nos24250/ 2013, 43551/ 2016 and 7350/ 2018

COMMON ORDER:-

Since these three Writ Petitions are *inter* related filed by the same petitioner, this Court deems it appropriate to dispose of these writ petitions by way of this common Order.

2. Alleging inaction on the part of the respondents, despite submission of a representation for removal of encroachments in the fish-ponds, W.P.No.24250 of 2013 came to be filed before this Court. While admitting the said Writ Petition, in W.P.M.P.No.29850 of 2013, this Court, on 02.04.2013, passed interim order, directing the respondents to dispose of the representation of the petitioners, dated 22.06.2013. After the expiry of the lease period, in the month of June, 2016, the petitioner herein filed an application before the respondent/Gram Panchayat requesting for renewal of the lease. The respondent-Gram Panchayat, Penamaluru, on 25.10.2016 passed resolution, postponing the auction till the disposal of W.P.No.24250 of 2013. The petitioner herein filed W.P.No.43551 of 2016, assailing the said action.

3. Thereafter, on an application made by the petitioner herein, requesting for grant of lease in respect of Perantamma, Banamma and Devanna ponds, the respondent-gram panchayat vide R.O.C.No.11/2018, dated 08.02.2018, reiterated its earlier stand. The same is the subject matter of W.P.No.7350 of 2018.

4. According to the learned Counsel for the petitioner, the action on the part of the respondent-gram panchayat in refusing to grant lease in favour of the petitioner herein is highly illegal,

arbitrary, unreasonable and patent violation of the fundamental rights guaranteed to the petitioner herein under Articles 14 and 21 of the Constitution of India. It is further contended that the pendency of W.P.No.24250 of 2013 cannot be a ground for the respondent-Gram Panchayat to refuse to grant the lease in favour of the petitioner herein.

5. On the other hand, it is submitted by the learned Government Pleader so also the learned Standing Counsel for the respondent-Gram Panchayat that there is no illegality nor there exists any infirmity in the impugned action and in view of the pendency of W.P.No.24250 of 2013 the respondents could not proceed further in the matter.

6. It is significant to note that the respondent-authorities are not denying the entitlement of the petitioners herein to get the lease in respect of the subject tanks. The only objection, as evident from the pleadings and the submissions, is the pendency of W.P.No.2450 of 2013 before this Court wherein the petitioner herein sought the removal of encroachments in the subject tanks, which according to the petitioner, are coming in the way of livelihood of the petitioners herein. Earlier, when the petitioners herein filed C.C.No.46 of 2015, alleging violation of the order of this Court in W.P.M.P.No.29850 of 2013, this Court on 27.11.2015 closed the said Contempt Case while noting certain efforts said to have been made by the respondents, namely addressing letter to the surveyor. In the said order, this Court also kept it open for the petitioner herein to agitate their rights in the main Writ Petition. It is also pertinent to note in this context that the District Panchayat Officer vide proceedings R.O.C.No.1389/2016 P.3, dated

08.12.2017, while pointing out no reason for refusing to grant lease on the part of the Gram Panchayat called for a reply from the respondent-Gram Panchayat within fifteen days. In the said proceedings, the District Panchayat Officer categorically observed about the effect of the pendency of W.P.No.24250 of 2013 before this Court. This Court also does not find any justification on the part of the respondent-Gram Panchayat in not extending the lease in favour of the petitioner herein when the fact remains that this Court never directed the respondents herein in the said direction and only directed to consider the representation of the petitioner herein for removal of the encroachments. It is the responsibility of the Gram Panchayat and the Irrigation authorities to protect the water bodies and they cannot avoid the said responsibility. If there are any encroachments made unauthorizedly, it is their obligation to discharge the duty to remove the same.

7. For the aforesaid reason, the Writ Petitions are disposed of, directing the respondents to consider the case of the petitioners herein for grant of lease in respect of the subject tanks and for removal of the unauthorized structures, if any, within the said water bodies. The said exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

Miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

A.V.Sesha Sai, J

Date: 09.07.2018
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