

THE HONOURABLE SMT. JUSTICE P. MADHAVI DEVI

WRIT PETITION NO.20522 OF 2021

ORDER

In this Writ Petition, the petitioners are seeking a Writ of Mandamus declaring the action of the respondents in demolition of the petitioners' house/hut situated in Survey No.41 located in Nomula Village, Manchal Mandal, Ibrahimpatnam Division, Ranga Reddy District without giving any notice, as illegal, arbitrary and in violation of principles of natural justice and consequently to direct the respondents not to evict and dispossess the petitioners from their land admeasuring Ac.4.00 gts., in Survey No.41 situated at Nomula Village, Manchal Mandal, Ibrahimpatnam Division, Ranga Reddy District and to pass such other order or orders as this Court may deem fit and proper in the circumstances of the case.

2. Brief facts leading to the filing of the present Writ Petition are that the petitioners claim to be absolute owners and possessors of agricultural land admeasuring Ac.4.00 gts., in Survey No.41 located in Nomula Village, Manchal Mandal, Ibrahimpatnam Division, Ranga Reddy District. They claimed to have purchased Ac.1.00 of land in

Survey No.41 from one Burgu Parwathalu and another *vide* registered sale deed bearing No.22835/2018 dt.20.10.2018 and the remaining Ac.3.00 located in Survey No.41 from one Baddula Jangaiah and others *vide* registered sale deed bearing No.14346/2018 dt.02.07.2018. It is submitted that the petitioners have obtained pattadar pass books and have got their names mutated in the revenue records and are in peaceful possession of the same since the date of purchase. It is submitted that the petitioners are also receiving benefits of Rythu Bandhu scheme launched by the State Government in respect of the above land.

3. It is submitted that on 24.08.2021, without any prior notice to the petitioner, respondents No.2 to 7 have barged into the land of the petitioners with a JCB and demolished the hut and broke the gate forcibly alleging that the land is tank bed land of nearby Sabith Nagar Tank (Lingampally Cheruvu) and though the petitioners tried to show their documents evidencing that it is their patta land, the respondents did not heed to them and tried to dispossess the petitioners. Hence, the present Writ Petition has been filed.

4. Learned counsel for the petitioners, Sri C. Sharan Reddy, reiterated the above submissions and have also placed copies of registered sale deeds in support of the contentions of the petitioners.

5. Learned Government Pleader for Irrigation and Command Area Development appearing for the respondents, however, relied upon the averments made in the counter affidavit and stated that Lingampalli Cheruvu situated in Lingampalli Village, Manchal Mandal, Ranga Reddy District is spread over in various survey numbers of two villages, namely, Lingampalli and Nomula of Manchal Mandal and the FTL area of the said Tank is 129.08 acres and its Ayacut is 111.89 acres. It is submitted that this is an old tank and was formed decades ago and the same is an identified Tank having Geo ID No.786994171750 and Tank Code No.50483500501101. It is submitted that the tank was originally under the jurisdiction of Irrigation Division-I, Hyderabad and recently due to reorganization, it came to the jurisdiction of Executive Engineer, Irrigation Division-II, Hyderabad, i.e., respondent No.3 and during the routine inspection of the tank, the officials have noticed that the petitioners have constructed two small structures in the FTL area of the above referred tank without any NOC/clearance from the Irrigation

Department. In view of the same, the respondents, in order to safeguard the interest of the tank, have removed the structures. It is submitted that the said land is submerged in water even on the date of filing of the counter affidavit and photographs have been filed showing part of the structures in the FTL area of the said tank. It is further submitted that the petitioners have not applied for NOC either to HMDA or to the Irrigation and CAD Department before construction of the said structures in the subject land, i.e., FTL area of the said tank. It is further submitted that the FTL area, even though is patta land, is meant for agricultural purpose and not for construction of houses. It is submitted that the respondents had orally intimated the petitioners several times to remove the structures, but the petitioners did not do so and the Tahsildar also had addressed a letter to the District Collector for dismantling of the structures in the FTL area of the said tank and as there was no action on the part of the petitioners, the subject structures were demolished by respondent No.7 and therefore, no illegality was committed as alleged by the petitioners. Thus, the action of the respondents has been justified in the averments made in the counter affidavit. The respondents have filed photographs of the structure which is submerged in the tank and also filed the copies of the correspondence between the respondents with

regard to the dismantling of the structure. However, the claim of the petitioners being pattedars of the land in the FTL area, is not denied by the respondents.

6. Having regard to the rival contentions and the material on record, this Court finds that the petitioners, being pattedars of the said land, should have made an application for permission to construct a building in the said land but they seemed to have raised structures without obtaining any permission or obtaining NOC and as seen from the photographs filed along with the counter affidavit, the said structures are submerged in water. Therefore, it is clearly falling in the FTL area of the tank. As rightly pointed out by the learned Government Pleader for Irrigation and Command Area Development, the land in the FTL area can only be used for agricultural purpose when it is not submerged in water, but cannot be used for construction of structures. The petitioners have not filed any reply affidavit rebutting the contentions of the respondents. In view of the same, the averments in the counter affidavit of the respondents remain unrebutted and the petitioners cannot be permitted to raise structures in the FTL area of the tank. This Court does not find any merit in the Writ Petition.

7. The Writ Petition is accordingly dismissed. No order as to costs.
8. Pending miscellaneous petitions, if any, in this Writ Petition shall also stand dismissed.

JUSTICE P. MADHAVI DEVI

Date: 22.02.2023

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