

The Paryavarana Parirakshana Samithi, Gajwel Vs The District Collector, Medak and Others

Court: Andhra Pradesh High Court

Date of Decision: Nov. 7, 2012

Acts Referred: Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006 " Section 8

Citation: (2013) 2 ALD 530 : (2013) 3 ALT 70

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: O. Manohar Reddy, for the Appellant; T. Surya Karan Reddy, for R.12 to R.14, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy

1. The petitioner is a society, registered mainly for the purpose of identifying common problems being faced by the residents of Gajwel

Constituency in Medak District and to suggest solutions therefor. In this writ petition, the orders, dated 23.03.2012, passed by the Joint Collector,

Sanga Reddy, the 2nd respondent herein, confirming the order, dated 27.01.2011, passed by the Revenue Divisional Officer, Siddipet, the 3rd

respondent herein, permitting change of land use in respect of about 22 acres, in different survey numbers of Pragnapur Village, Gajwel Mandal,

are challenged. The petitioner submits that the land, as regards which the permission was accorded by the 3rd respondent, is part of ayacut of

about 180 acres of an irrigation tank, by name Ooracheruvu of Pragnapur Village, and that the irrigation is through two sluices. The petitioner

submits that the land in question abuts the tank bund and on account of indiscriminate change of land use, the irrigation canals are destroyed and

that very existence of tank is under threat. It further submits that the irrigation department has taken steps for improvement and maintenance of the

tank, sluices and canals and substantial amount was also released. It submits that respondents 12 to 14, who got rights over 22 acres of land, are

undertaking real estate business and in the pursuit of their selfish goals, they are not only posing threat to the tank, but also are affecting the rights of

other formers to receive uninterrupted supply of water.

2. The petitioner contends that the 3rd respondent did not take into account, various aspects, before he permitted the conversion of agricultural

land for other purposes, and though several contentions were urged before the appellate authority, i.e. the 2nd respondent, none of them were

properly appreciated.

3. The writ petition is contested mainly by respondents 12 to 14. They submit that the ayacut of the tank has virtually become part of the residential

area of Pragnapur, which is on an important highway, namely Rajiv Rahadari from Hyderabad to Ramagundam. It is stated that they had to seek

permission to put their agricultural land to other uses, on account of the fact that number of colonies have come up around their land, and such

colonies are developed on the land which is part of the same ayacut. They contend that the members of the petitioner are selective in their activism

and having kept quite when all-round development has taken place, they are creating hurdles for the development of their land, for political and

other reasons.

4. Heard Sri O. Manohar Reddy, learned counsel for the petitioner, learned Government Pleader for Revenue and Sri T. Surya Karan Reddy,

learned counsel for respondents 12 to 14.

5. In the recent past, a serious imbalance as to the use of land has taken place. There was a sudden spurt in the demand for land, for uses other

than agriculture. In stead of regulating it, in a proper and balanced manner, the State has washed off its hands just by enacting the A.P. Agricultural

Land (Conversion for Non-Agricultural Purposes) Act, 2006 (for short "the Act"). Except that it provides for collecting 10% of the market value

of the land, for according permission, for change of the use of an agricultural land, hardly it provides for any regulatory mechanism. At one stage,

this Court has stepped in and indicated certain measures in an order, dated 07.08.2012, passed in W.P.M.P. No. 31073 of 2012 in W.P. No.

24342 of 2012.

6. Respondents 12 to 14 own about 20 acres of land, which is part of ayacut of Ooracheruvu. Either encouraged by the substantial returns if their

land is sold out, or on account of the fact that agricultural has become almost impossible due to developments around their land; they submitted

application before the 3rd respondent with a request to accord permission to change the use of the land, duly remitting the stipulated fee. After

verifying the record and calling for a report from the Tahasildar, Gajwel Mandal, the 4th respondent accorded permission.

7. It does not appear that the petitioner raised any objection, when the applications were pending before the 3rd respondent. It is only after the

permissions were accorded, that the petitioner filed an appeal u/s 8 of the Act, before the 2nd respondent.

8. In all fairness to the petitioner and respondents 12 to 14, the 2nd respondent has undertaken, a marathon exercise by calling for the records

from the authorities of the Revenue Department, and collecting information from the Irrigation Department. The contentions advanced by both the

parties were referred to in detail. He recorded findings to the effect that the permission accorded to respondents 12 to 14, did not pose any threat

to the existence of the tank, nor the irrigation canals are spoiled or destroyed.

9. When the writ petition came up for hearing, this Court called for a report from the Superintendent Engineer, Irrigation CID Department, Medak

at Sanga Reddy. The Superintendent Engineer, in his report, dated 27.09.2012, stated:

I have inspected the lands in question on 21st September, 2012 and noticed the following and submit the status report about the existing state of

affairs pertaining to the tank, sluice and the channels.

Tank: It is not having any water for irrigation purposes and it is dried up twelve years back, the tank is working more or less as a percolation tank,

that is, the rain water being accumulated in the tank will be absorbed by the earth in the tank bed there by augmenting the ground water level for

lifting and irrigating the lands through the bore wells.

The Tahsildar, Gajwel, Deputy Executive Engineer, I.B. Sub Division, Gajwel and the Village Revenue Officer, Pragnapur accompanied me for

inspection of the lands, tank, sluice and channels.

Sluice: Though there is a Sluice on the right side of the bund which serves the ayacut, it is not in working condition and it is virtually in a dilapidated

condition. It is not fit for use, as on date.

Channels: There are some marks of channels at a few places with a width of 1 1/2 to 2 feet. As the lands are kept fallow and the channels were

not in usage for the last several years the visible marks of the channels have been disappeared on account of levelling the lands for using them for

non-agricultural purposes. There is lot of Building Construction activity visible around the designated land. Also it is pertinent to note that the

construction of pucca channels is taking place all along the approach road with bricks and cement mortar as shown in enclosures at Sl. No. 19 at

the end of this report, there by the channels can be utilised for carrying water to facilitate the farmers in using the water for irrigation purposes, if

any at a later date.

Urbanization of lands under the tank: The total Ayacut under the tank is about 183 acres out of which 40% lands have been developed by

constructing Functional Hall, Theatre, Colleges, Godowns, Andhra Bank, and Petrol Bunks already. Another 40% of the land has been developed

by forming layouts and residential buildings obtaining permission from the Grampanchayath, Pragnapur. The residual land of 20% is being

cultivated by means of bore wells.

10. He has enclosed the list of as many as 12 large establishments, which are on the ayacut land. They include two cinema halls, two petrol pumps,

about half a dozen residential complexes, college, function halls etc. Under these circumstances, it cannot be said that the 3rd respondent

committed any illegality in according permission to respondents 12 to 14 or that the 2nd respondent did not examine the matter in detail.

11. It is not a case where the members of the petitioner are the first ones to get permission under the Act, in the entire ayacut. By the time, they

submitted application, 40% of ayacut has been put to other uses.

12. If the endeavour of the petitioner is to protect the irrigation canals, adequate measures can certainly be taken, even now. The Irrigation and

Revenue Departments can identify the location of the irrigation canals starting from the sluices to the extent they are proceeding from the land of

respondents 12 to 14 or other layouts and ensure that the water from the tank passes through the canals to the remaining part of the ayacut.

Wherever the ayacut has been put to any other use, adequate steps can be taken to ensure that the canal in its original size exists in the same or

slightly changed alignment, in such a way that the existing ayacutdars should be in a position to draw water from the tank, as and when it is

available. The petitioner is not able to demonstrate any factual or legal errors in the orders passed by respondents 2 and 3. Hence, the writ petition

is disposed of, upholding the orders challenged in the writ petition, but directing that,

a) It shall be the obligation of respondents 1 to 6 to preserve the tank at any cost. They shall ensure that no part of the tank bed is allotted or

assigned and that no construction takes place in the FTL area of the Tank. The boundaries shall be fixed with prominent marks and structures;

b) respondents 3, 4 and 6 shall fix the alignment of the irrigation channels starting from the sluices of the Ooracheruvu and restore them either with

the same or slightly changed alignment, depending on the convenience, in such a way, that the existing ayacutdars are in a position to draw water

from Ooracheruvu, as and when it is available;

c) to the extent it passes through the lands of respondents 12 to 14, it shall be their responsibility to meet the expenditure for digging and lining the

canal, permanently, under the direct supervision of the 6th respondent; and

d) It shall be the obligation of respondents 12 to 14, or the persons, who purchased plots from them, or any society that may be formed by them,

to ensure that the canals are maintained, in such a way, that there does not exist any obstruction for free flow of water.

The miscellaneous petition filed in this writ petition shall stand also disposed of. There shall be no order as to costs.