

(2001) 07 AP CK 0042

Andhra Pradesh High Court

Case No: Writ Petition No. 17220 of 2000

Kakani Hanumantha Rao and
Others

APPELLANT

Vs

Govt. of A.P., Revenue
Department and Others

RESPONDENT

Date of Decision: July 25, 2001

Citation: (2001) 5 ALT 312

Hon'ble Judges: S.B. Sinha, C.J; V.V.S. Rao, J

Bench: Division Bench

Advocate: M.S.N. Prasad, for the Appellant; G.P., for Respondent Nos. 1 to 3 and 6, D. Srinivas and E. Kalyanram, S.C. for Pollution Board, for the Respondent

Judgement

S.B. Sinha, C.J.

The petitioners in this writ application have inter alia prayed for the following reliefs:

".... to issue a writ of mandamus or any other appropriate writ, order or direction declaring the inaction of the respondents in not taking any action for removal of encroachments and stop the pollution from the brick industries in tank and tank bed land comprised in Sy.No. 95 of Addanki Village as illegal and consequentially direct the respondents to take steps for removal of the same to prevent pollution and pass...."

2. The contention of the petitioners is that in Survey No. 95 of Addanki Village/ town, several brick industries have been set up as a result whereof the well and the tank bed contained therein are being polluted.

3. Respondent Nos. 1 to 3 have filed a counter-affidavit wherein it has been admitted:

"5. In reply to the allegations made in para 6 of the petitioner's affidavit it is submitted that when the Mandal Revenue Officer, Addanki was about to take steps

for removal of the brick kilns, the owners of the brick kilns filed suits on the file of the Hon"ble Principal Junior Civil Judge"s Court, Addanki and obtained interim injunction orders on 20-6-2000 as shown hereunder against the Mandal Revenue Officer, Addanki not to change the physical features existing thereon:

I submit that due to the injunction orders of the Hon"ble Principal Junior Civil Judge"s Court, the Mandal Revenue Officer, Addanki could not take any effective steps for removal of the brick kilns. In the said suits and Interlocutory Applications, the Mandal Revenue Officer, Addanki, has taken effective steps by filing counters and written statements by the date of first hearing itself and pressed for vacating the interim orders.

9. In reply to the allegations made in para 10 of the petitioner"s affidavit it is submitted that the brick kilns are causing untold public nuisance, unhygienic atmosphere and health hazards to the public at large residing in the vicinity.

10. In reply to the allegations made in Paras 11 and 12 of the petitioner"s affidavit it is submitted that the tank is rain fed tank and there is no other supply channel from any other irrigation source supplying water to this tank. I further submit that in the recent past, the ayacut lands under this tank are not irrigated with this tank water and they are irrigated with water from Bhavanasi Tank canal by mechanical devise unauthorisedly and water cess is being charged accordingly as Bhavanasi Tank is a notified irrigation source."

4. By an order dated 15-9-2000 a learned Single Judge of this Court directed the District Collector to make an enquiry and produce a report. Pursuant to or in furtherance thereof a report vide Rc.E3/5766/2000 dated 12-3-2001 of the District Collector has been produced before this Court wherein it has been stated:

" x x x

The following individuals obtained licences from the Gram Panchayat for running Brick Kilns upto 31-3-2001.

- (1) Sri Vemula Srinivasa Rao
- (2) Sri Vemula Sanjeeva Rao
- (3) Sri Guggilla Anjaiah
- (4) Sri Koneti Anjaiah

The Executive Officer further reported that he has not received any objections from the people or from the Courts during February, 2000 i.e., at the time of renewal of brick kilns situated in Gram Panchayat area and on par with other licensees the above brick kilns licences were renewed by the Gram Panchayat.

The Addanki Gram Panchayat granted permission to 20 houses out of 63 houses and fixed house-tax to the 63 houses and collected house-tax from them. During

1997-98 general revision, the Gram Panchayat fixed house-tax to the 358 temporary structures situated in S.No. 95 (Uracheruvu Poramboke) and D.P.E.P. building was constructed by Government funds and started in the year 2000.

In this connection, it is submitted that the Government in their Circular Memo No. 536/90/Asn.1 (1), dated 28-8-1998 informed that the Hon"ble High Court of Andhra Pradesh in its interim order in W.P. No. 23829/97 dt. 22-9-1997 has directed not to grant any permission or consent for converting the Tank Bed Lands and Tanks and their use for any other purpose and it is necessary always to prevent encroachments of Tank Bed lands and canal lands. The Government also issued instructions to initiate action against the encroachers under the provisions of the Land Encroachment Act, 1905 or under the A.P. Land Grabbing (Prohibition) Act, 1982 as the case may be. The above instructions already communicated to all the Revenue Divisional Officers and Mandal Revenue Officers in the district vide Collector"s Rc. B5/6272/98 dated 28-9-98.

The Revenue Divisional Officer, Ongole finally reported that since the land is classified as Tank Poramboke, all the encroachments need to be evicted irrespective of the fact whether the encroachments are houses, Agriculture land, road and brick kiln etc.

It is submitted that action is being taken to cancel the Brick Kiln licences granted, and the Mandal Revenue Officer, Addanki and Executive Officer, Gram Panchayat, Addanki were directed to protect the tank bed lands free from encroachments."

5. It is therefore evident that the land in question is a tank and the same was encroached by some brick kiln operators. Having regard to the fact that for the purpose of protection and preservation of environment, water body has a vital role to play, we direct that no brick kiln operation be permitted. For the said purposes, the 1st respondent is directed to take appropriate steps in accordance with law.

6. With the aforementioned observations and directions, the writ petition is disposed of. No order as to costs.