

[3206]

(SHOW CAUSE NOTICE BEFORE ADMISSION)
IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

MONDAY, THE TWENTY FIRST DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO

: PRESENT:

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO
WRIT PETITION NO: 35925 OF 2022

Between:

1. G Pratap Reddy, S/o. Sri Peddi Reddy, Hindu, Age. 75 years, Occ. Cultivation, R/o. Alamkhanapalli - 516 003, Kadapa, YSR District.
2. Putiuru Venkata Krishnaiah, S/o. Sri China Venkata Swamy, Hindu, Age. 74 years, Occ. Cultivation, R/o. Alamkhanapalli - 516 003, Kadapa, YSR District.

Petitioners

AND

1. The State of Andhra Pradesh, Rep. by its Prl. Secretary, Water Resources Department, A.P. Secretariat, Velagapudi - 522 503, Guntur District
2. The District Collector, YSR District at Kadapa - 516 001.
3. The Superintending Engineer, Irrigation Circle, Kurnool - 518 001
4. The Executive Engineer, Water Resources Department, K.C. Canal Division, Nandyal - 518 501, Nandyal District
5. The Deputy Executive Engineer, K.C. Canal (Spl.) Sub Division, Mydukur - 516 702, YSR District
6. The Municipal Corporation, Kadapa - 516 001, YSR District, Rep. by its Commissioner.
7. Pothula Siva Reddy, S/o Sri Subba Reddy, R/o Door No. 1-52, Ward No. 50, Rukavari Palli, Kadapa - 516 001, YSR District

Respondents

WHEREAS the Petitioner above named through their Advocate SRI N SIVA REDDY presented this Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent authorities in proposing to lease out the K.C. Canal poramboke land in Sy.Nos.738 and 739 of Palempalli Village, Kadapa Mandal, YSR District to the 7th Respondent as illegal, arbitrary and against the law laid down by the Apex Court and this Hon'ble Court and consequently direct the Respondents not to alienate the KC Canal poramboke land situated in Sy.Nos.738 and 739 of Palempalli Village, Kadapa Mandal, YSR District to anybody by way of lease or sale

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri N SIVA REDDY Advocate for the Petitioner, and of GP FOR IRRIGATION for Respondent No.1 to 5, SRI K SURESH KUMAR REDDY Standing Counsel for Respondent No.6, directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Prl. Secretary, Water Resources Department, State of Andhra Pradesh, A.P. Secretariat, Velagapudi - 522 503, Guntur District
2. The District Collector, YSR District at Kadapa - 516 001.
3. The Superintending Engineer, Irrigation Circle, Kurnool - 518 001
4. The Executive Engineer, Water Resources Department, K.C.Canal Division, Nandyal - 518 501, Nandyal District
5. The Deputy Executive Engineer, K.C.Canal (Spl.) Sub Division, Mydukur - 516 702, YSR District
6. The Municipal Corporation, Kadapa - 516 001, YSR District, Rep. by its Commissioner.
7. Pothula Siva Reddy, S/o Sri Subba Reddy, R/o Door No. 1-52, Ward No. 50, Rukavari Palli, Kadapa - 516 001, YSR District

are directed to show cause either appearing in person or through an Advocate, as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted,

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings relating to the proposal of leasing out the KC Canal poramboke land situated in Sy.Nos.738 and 739 of Palempalli Village, Kadapa Mandal, YSR District to the 7th respondent on his application dated 22-05-2022 filed before the 4th Respondent, pending disposal of WP No.35925 of 2022, on the file of the High Court.

The Court made the following:

ORDER:

"Notice before admission.

Learned counsel for the petitioners is permitted to take out personal notice to respondent No.7 by RPAD and file proof of service by the next date of hearing.

The complaint in the writ petition is that the poramboke land situated along the K.C. Canal in Sy.Nos.738 and 739 of Palempalli Village, Kadapa Mandal are sought to be leased out, for a period of 30 years, and the same would result in blockage of flow of water in the K.C Canal.

The petitioner, who is an agriculturist in the area had approached this Court with the above complaint on the ground that the flow of water to his lands would be affected.

The learned Government Pleader for Irrigation, on instructions, submits that the land is being leased out only for setting up temporary structures and there would be no affect on the movement of water and the apprehensions of the petitioners are misplaced.

The learned Government Pleader would also submit that the existing encroachments have been removed and there is every danger of the buffer land being encroached again. In such circumstances, the authorities have deemed it appropriate to lease out the land as a measure of protection against other encroachments.

The boundaries along canal are left for the purpose of ensuring free flow of water and for using the said land as a buffer between the developed areas and the actual canal.

In the circumstances, this Court is of the opinion that leasing out the land adjoining a canal for setting up structures, even if they are temporary would definitely damage and affect the canal as well as the movement of water in the canal.

The Hon'ble Supreme Court, in various Judgments, has taken the view, including Hinchlal Tiwari vs Kamala Devi and Ors., reported in (2001) 6 SCC 496. It is the bounden duty of the State to ensure that the land kept aside for water bodies are not used for any other purpose.

In the circumstances, this Court is of the opinion that such leasing out of a land is detrimental to the environment and to the irrigation facilities of the canal.

Accordingly, there shall be interim stay as prayed for."

Sd/- U. SRI DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

For A

SECTION OFFICER

To,

1. The Prl. Secretary, Water Resources Department, State of Andhra Pradesh, A.P. Secretariat, Velagapudi - 522 503, Guntur District
2. The District Collector, YSR District at Kadapa - 516 001.
3. The Superintending Engineer, Irrigation Circle, Kurnool - 518 001
4. The Executive Engineer, Water Resources Department, K.C.Canal Division, Nandyal - 518 501, Nandyal District
5. The Deputy Executive Engineer, K.C.Canal (Spl.) Sub Division, Mydukur - 516 702, YSR District
6. The Municipal Corporation, Kadapa - 516 001, YSR District, Rep. by its Commissioner.
7. Pothula Siva Reddy, S/o Sri Subba Reddy, R/o Door No. 1-52, Ward No. 50, Rukavari Palli, Kadapa - 516 001, YSR District (Addresses 1 to 7 by RPAD- along with a copy of petition and memorandum of grounds)
8. One CC to SRI N SIVA REDDY Advocate [OPUC]
9. Two CCs to GP FOR IRRIGATION, High Court of Andhra Pradesh. [OUT]
10. One CC to SRI K SURESH KUMAR REDDY, Standing Counsel [OPUC]
11. One spare copy

HIGH COURT

RRRJ

DATED:21/11/2022

NOTICE BEFORE ADMISSION

WP.No.35925 of 2022

INTERIM STAY

