

Lellav Kanak Durga, Vsp. vs Dist. Collecotr, Vsp. 2 Ors. on 6 January, 2022

Author: Kongara Vijaya Lakshmi

Bench: Kongara Vijaya Lakshmi

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KVL, J
WP No.644 of 2014

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.644 of 2014

ORDER:

This writ petition is filed to „declare the action of the respondents in seeking to demolish the structures of the petitioner situated in Sy.No.116/16D in an extent of 774.4 sq. Yards situated at Yendada village, Visakhapatnam Rural, as illegal and arbitrary .

Case of the petitioner is that, the land in Sy.No.116/16D is a private zirayati land and it is not a government or assigned land; one Srinivas Babu purchased the said land through a registered sale deed dated 28.04.2012 from the original owner Kona Atchanna and others; petitioner obtained the said property on lease on 10.07.2013 from the said Srinivas Babu to establish a coffee shop; thereafter, petitioner obtained a license under Food Safety and Standards Act, 2006 from the government and the said license is valid till 29.11.2018; she raised temporary hut and selling tea, coffee and other snacks; while so, the 3rd respondent issued a notice dated 03.01.2014 directing the petitioner to produce the land papers and agreement papers and to attend for the enquiry on 04.01.2014; she approached the 3rd respondent on 04.01.2014 and produced all the documents; on 06.01.2014, the 3rd respondent tried to demolish the hut. Hence, the writ petition.

When the writ petition came up for admission on 09.01.2014, an interim order of status-quo as on that day was passed.

Counter-affidavit is filed by the 3rd respondent-Tahsildar R.Narasimha Murthy, stating inter-alia that the land admeasuring an extent of Ac.0.79 cents in Sy.No.116/16D is recorded in the names of (1) Kona Narasimhudu, (2) Panchadarla Appayamma and (3) Nammi Ramayya, as pattadars; the subject land is within the CRZ area, adjacent to the coastal zone. It is also KVL, J stated in the counter affidavit that "the petitioners have never interfered into the possession of the petitioner in Sy.No.116/16D of Yendada village. The petitioner has not obtained any permission from the CRDA/VUDA/ GVMC has unauthorizedly constructed the semi-permanent single storied structures and running a commercial unit named D-Cabbanna Dhaba within the CRZ Zone. The then Tahsildar, Visakhapatnam Rural has accordingly issued a notice to them so as to produce the

documents and other permissions with regard to the above constructions as they have violated the norms of the Coastal Region Zone". The Tahsildar also addressed a letter dated 09.01.2014 to the Vice Chairman, VUDA and Commissioner, GVMC, stating that one K.M. Madheena, resident of Srinivasa Nagar has filed a petition in Prajavani programme vide petition No.48913 dated 26.12.2013 alleging that a construction is going on for dhaba nearer to Sagar Nagar, 6 th ward, Yendada village in violation of the CRZ regulations; Tahsildar also stated that the Mandal Revenue Inspector and Village Revenue Officer, Yendada village have inspected the subject land and reported that a semi permanent structure was constructed for running D Cabanna Dhaba (Food court) in the CRZ limits and requested the officials to issue instructions to the concerned officials for inspection and taking necessary action against Prasad, owner of the Dhaba for running the food court in the CRZ limits, violating the CRZ regulations; the then Tahsildar also addressed a letter to the District Collector on 23.06.2015 mentioning the above facts; as per the instructions of the Joint Collector, the Mandal Surveyor has surveyed the subject land and prepared a sketch showing the actual land of the structure and encroached area; the Tahsildar also requested the District Collector to address a letter to the Vice Chairman, VUDA and Commissioner, GVMC to take appropriate action against the owner of the Dhaba; the petitioner has encroached the government land in an extent of 1815 sq. yards in the subject survey number; petitioner is still in possession of the subject land KVL, J without any authority and running the dhaba and prays to vacate the interim order.

In the facts and circumstances, as the notice issued by the Tahsildar dated 03.01.2014 stating that the petitioner has encroached the government land or made constructions in violation of CRZ regulations and running dhaba thereon, the competent authority is directed to issue fresh notice to the petitioner and to take appropriate action by following due process of law. It is made clear that the writ petitioner claims that she obtained the subject property on lease from the original owner, the respondents or the competent authority is directed to give notice to the original owner of the property also before passing any order.

The writ petition is, accordingly, disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

_____ KONGARA VIJAYA LAKSHMI, J Date: 06.01.2022 BSS KVL,
J HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI Date: 06.01.2022 BSS