

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Application No. 175 of 2017 (SZ)

Applicant(s)

Sri Muppalla Srinivasa Rao,
Parchur Mandal,
Prakasam District and another
P

Vs. Respondent(s)

State of Andhra Pradesh,
Rep. by its Principal Secretary,
Revenue Secretariat,
Guntur District and 6 others

Legal Practitioners for Applicant(s)

M/s. Balaji Medamalli,
A.Lavanya,
Sekhar Babu Damacharia,

Legal practitioners for respondent(s)

Mrs. H.Yasmeen Ali for R1 to R7

Note of the Registry	Orders of the Tribunal
Order No. 1	<p>Date: 17th August, 2017</p> <p>Heard the learned counsel appearing for the applicant.</p> <p>Issue notice to the respondents.</p> <p>Respondent No.1 is shown as State of Andhra Pradesh, represented by Principal Secretary, Revenue. Strangely, respondent No.2 is also shown as State of Andhra Pradesh, represented by Principal Secretary, Environment, Forest, Science and Technology. The State of Andhra Pradesh being the first respondent cannot be impleaded again as respondent No.2. If the intention of the applicant is to implead the Principal Secretary of</p>

Environment, Forest, Science and Technology, the State of Andhra Pradesh, it should be described as such. The learned counsel appearing for the applicant submitted that respondent No.1 is in fact the Principal Secretary, Environment and Forest, State of Andhra Pradesh. If so the applicant shall take steps to correct the name of respondent No.2 accordingly immediately.

Mrs. H.Yasmeen Ali, the learned counsel takes notice for respondents No.1 to 7 and waive service of notice.

The applicant to furnish copy of the application with annexures to the learned counsel appearing for respondent No.1 to 7 within 2 days.

Let the reply be filed by respondent No.1 to 7 within a period of 3 weeks with advance copy to the applicant who is at liberty to file rejoinder, if any, within a period of one week thereafter.

It is pointed out by the learned counsel appearing for the applicant that due to the encroachments in the Krisham Raju Tank, situated in Survey No.159-1 of Devarapalli Village, a Writ Petition was filed and the Hon'ble High Court of Andhra Pradesh by order dated 16.06.2015 in WPMP No.22499 of 2015 in W.P.No.17380 of 2015 directed the State to verify as to which of the alleged encroachers are in

possession of the subject land and if they are found to be in possession, the respondents shall not interfere with their possession, except in accordance with due procedure laid down by law. It is also pointed out that subsequent to the order, the State conducted an enquiry and by order dated 11.09.2016, the Tahsildar Parchur found that there are encroachments in the land in Survey No.159-1 and 28 of Devarapalli Village classified as Tank Poramboke Lands and passed an order under Section 6 of Land Encroachment Act and directed eviction under Section 7 of the said Act. The records support the submissions and also reveal that subsequently, the encroachments were evicted and the land was handed over to respondent No.7.

As declared by the Hon'ble Supreme Court in various decisions, the material resources of the community like forests, tanks, hillock and mountain etc. are nature's bounty and need to be protected for proper and healthy environment which alone enables the people to enjoy the quality of life which is the essence of the right guaranteed under Article 21 of the Constitution of India. The Tank is the property of the community and the State Authorities are only trustees who are holding it for the benefit of the community. The State cannot commit any act or omission which will

infringe the right of the community including alienating it to any other person or body. Therefore, *prima-facie* the Tank or the Tank Poramboke cannot be allowed to be alienated or to change its character as a water body.

In such circumstances, as the Tank or the Tank Poramboke cannot be used for any other purpose including its alienation, the respondents are directed to maintain *status quo* till 19.09.2017.

List the matter on 19.09.2017.

.....J.M.

(Justice M.S. Nambiar)

