
(2001) 03 AP CK 0035

In the Andhra Pradesh High Court

Case No : Writ Petition No"s. 19785, 20339, 20704, 20820, 20991 and 25502 of 2000

Karanam Radha Krishnaiah and others

APPELLANT

Vs

Mandal Executive Magistrate and Mandal Revenue Officer,
Muthukur Mandal and others

RESPONDENT

Date of Decision : 12-03-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 145
Environment (Protection) Act, 1986 — Section 3(2)

Citation : AIR 2001 AP 190 : (2001) 2 ALD 642 : (2001) 2 ALT 329

Hon'ble Judges : B. Sudershan Reddy, J

Bench : Single Bench

Advocate : Mr. C.V. Mohan Reddy, S. Srinivas Reddy and K.S. Murthy, for the Appellant; Government Pleader for Revenue and for Irrigation, for the Respondent

Judgement

1. These writ petitions may be disposed of by a common order, as common questions arise for consideration in all of them. The gravamen of the complaint is similar in nature. The cause of action is one and the same.

2. The petitioners claim to be the true and absolute owners of the lands in question located in various Sy Nos. of Krishnapatnam village, Muthukur Mandal, Nellore District. The petitioners in proof of their ownership and possession of the said lands rely upon various revenue records including Adangal and Settlement registers etc. It is not necessary to notice the details of the claim, as it may not have any bearing whatsoever upon the issues that arise for consideration in the instant writ petitions. The Court may as well proceed on the assumption that the petitioners are the owners of the lands in question and consider as to whether the petitioners are entitled for any relief as such from this Court.

3. There is no dispute whatsoever that the said lands are classified as agricultural lands and even according to the petitioners they used to conduct agricultural

operations in the said lands upto the period ranging from 1994 to 1996. Thereafter the petitioners have admittedly converted the lands into Fish/Prawn ponds. It is admitted that the petitioners got the lands under their occupation excavated and have been doing Fish/Prawn cultivation.

4. The lands admittedly, are located in Krishnapatnam tank. The Krishnapatnam tank is a PWD tank. There is some dispute with regard to the exact extent of the tank bed and ayacut under the said tank. But the same may not really be of any consequence as such. In the counter-affidavit filed by the Executive Engineer, it is stated that the total ayacut under the tank is 1036-76 acres with a water-spread area of 296-55 acres. The lands in question are located in the water storage area of the tank. The title of the petitioners in respect of the said lands is not seriously in dispute. Likewise, there is no serious dispute from the petitioners' side that the lands are located in the water storage area of the tank.

5. It is the case of the official respondents that the landowners used to cultivate paddy crops in their lands whenever they were available for such cultivation depending upon the water levels in the tank. All of a sudden they have started aquaculture by forming Fish/Prawn ponds with 3 to 4 mts. high bunds causing irreparable damage to the Irrigation system of the tank by reducing the storage area. The land owners are alleged to have damaged the surplus weir of the tank with an intention to make the tank dry so as to continue with their Fish/Prawn cultivation. The said activities of the petitioners in the tank bed area are adversely affecting the total ayacut under the tank and ayacutdars are very much agitated about the threat to their livelihood.

6. It is also stated that the ayacutdars are making frequent representations requesting the authorities to take necessary steps.

7. In the counter-affidavit filed by the District Revenue Officer, it is however, stated that the ayacut under the tank is Ac.935-36 cents. The activities of the petitioners in converting their lands admeasuring Ac.74-74 cents had resulted in destruction of the physical features of the Irrigation source and damage to the Irrigation system itself adversely affecting the rights of the ayacutdars of an extent of Ac.935-36 cents. On the representations made by the ayacutdars, the District Collector himself has personally inspected the lands in question.

8. The District Collector after such spot inspection and study came to the conclusion and the same is worth reproducing in his own words: ".....commercial interests are ravaging the interests of the agricultural farmers and labour and every day, attempts are being made to buy directly or by benami transactions every land yielding ground water to make the most profit. Fertile lands are being taken over and converted for prawn culture which will ultimately result in converting it into a waste land. While simultaneously pauperising the agricultural farmer and agricultural labourer.

9. This serious problem has to be tackled immediately with every law and power which can fight for justice." Indeed a laudable object. It is heartening to notice

that in these days of so-called liberalisation, globalisation and privatisation somebody is thinking of the welfare of farmer and agricultural labourer. The concern shown by the District Collector deserves appreciation.

10. The District Collector found that the farmers under the ayacut are receiving the polluted water discharged from the prawn tanks and not fresh water from the irrigation tank. The surplus weir was broken by miscreants. The Collector does not hold the petitioners personally responsible for breaking of the surplus weir but observed that the breaking of surplus weir facilitates the lowering of the level of water in the irrigation tank to suit prawn culture operations in the tank bed. It is observed by the District Collector that before the commencement of the prawn/fish cultivation, the farmers were receiving water from the irrigation tank and cultivating their lands peacefully using water from the tank. The District Collector observed that these new prawn tanks are coming up anywhere and everywhere tapping the ground water. This has a detrimental effect in the long run by depleting the ground water at a very fast rate. The evil affect of corporatisation of every conceivable economic activity and it is spread into agricultural sector is succinctly noticed by the District Collector. It is observed by him that the demolition of the existing systems of the tank has brought in harmful economic change. It is observed by the District Collector, some times big money from the corporate bodies is flowing as an investment into fresh water prawn culture with a view to reap big commercial profits on a land where they do not live and have any interest except to reap the benefit of the investment. The Collector noticed that the said activity is nothing but an act of ravaging the land depriving the traditional agriculturist of his legitimate right to cultivate the lands. The farmers are being displaced out of their occupation depriving them of their livelihood.

11. The District Collector in his affidavit reiterated the findings recorded by him during the inspection. It is asserted that though the petitioners are having lands within the tank bed, no crops were ever raised due to the fact that the lands are in the foreshore of the water logging area of the tank. The ayacutdars have acquired the right of easement enforceable under law to ensure uninterrupted and adequate water storage in the tank and supply of water for the ayacut lands admeasuring Ac.935.36 cents.

12. It is also stated that the A.P. Pollution Control Board, Regional Office, Nellore informed him that the aquaculture units are discharging large quantities of organic effluents. Indiscriminate conversion of land use from agriculture to that of aquaculture resulted in large-scale destruction of soil. The same has lead to shortage of food production.

13. It is also the case of the District Collector that all the aquaculturists are required to obtain authorisation from the Central Aqua Authority, Chennai and it shall be unlawful if any such activity of aqua farming is taken up without such authorisation. Such cultivation, according to the District Collector is also contrary to the directions of the Supreme Court. It is stated that the District Collector, Joint Collector, Revenue Divisional Officer, Nellore and officials of pollution control

board and Irrigation Department have inspected the aqua ponds located in Krishnapatnam tank and observed the aqua ponds are causing obstructions to the supply and distribution channels minimising the water retention capacity of the tank and also polluting the irrigation water thereby causing great hardship to the auacutdars. It is submitted that the petitioners cannot be permitted to carry on the activity of aqua forming in a manner detrimental to the interest of the ayacutdars of the tank.

14. It is true that the proceedings initiated u/s 145 of Cr.PC by the Mandal Executive Magistrate dated 25-5-2000 were quashed by this Court in Crl.P.No.2509 of 2000 dated 16-6-2000 on the ground that the Mandal Executive Magistrate could not have decided anything about the title in respect of the lands in question. The proceedings themselves were perhaps initiated at the behest of Ayacutdars. However, this Court gave option to the authorities concerned to set the law in motion against the petitioners, if the situation still warranted such interference by the respondents.

15. It is required to notice that thereafter the petitioners were served with notice dated 14-7-2000 requiring the petitioners to explain as to how the petitioners have occupied the Government land and dug prawn ponds. In the said notice, it is alleged that the petitioners have closed the canals, which supply water to the lands from Krishnapatnam Tank. The said notice was challenged in WP No.13571 of 2000 and this Court disposed of the said writ petition at the admission stage leaving it open to petitioners to seek clarification from the Mandal Revenue Officer before giving the reply to the notice dated 14-7-2000 under which law such a notice has been issued by the respondents. Thereafter the petitioners were permitted to submit their reply. Nothing really turns upon the same.

16. The gravamen of the complaint in the instant writ petitions is that all of a sudden on 16-10-2000 certain PWD officers visited the land and started measuring the lands in which the petitioners are carrying on the aquaculture. The officers are alleged to have informed the petitioners that fish/ prawn ponds would be removed in a day or two and they were measuring the lands for that purpose. The alleged interference of the PWD authorities in measuring the land is the provocation for filing these writ petitions.

17. Sri C.K Mohan Reddy, learned Counsel for the petitioners contends that the petitioners are entitled to carry on aquaculture in their own lands. There is no prohibition in law to carry on the aquaculture by the petitioners. Learned Government Pleader for Revenue and the learned Government Pleader for Irrigation would contend that the aquaculture carried on by the petitioners in the Tank bed land is detrimental to the public interest. The petitioners by raising huge bunds have caused obstruction to the irrigation channel. The fish/prawn ponds dug by the petitioners in the Tank bed land had resulted in depletion of storage capacity of the Tank adversely affecting the legitimate right of the farmers to get water from the Tank for cultivation of their lands. It is also contended that the aquaculture carried on by the petitioners in the Tank bed of

Krishnapatnam Tank is resulting in release of contaminated water containing organic effluents in to the irrigation water, polluting the same and thereby causing great risk to the crops raised in the ayacut lands.

18. The petitioners made an attempt to make much out of some variation in the averments made in the counter-affidavit by the District Revenue Officer and the Irrigation Department, about the actual extent of the Tank bed area. In my considered opinion, nothing much turns upon the same.

19. The averments made in the counter-affidavit filed by the District Revenue Officer, the District Collector and the Executive Engineer and the records made available for the perusal of the Court would uniformly reveal that the lands where the petitioners are carrying the aquaculture are located in Krishnapatnam tank bed. The discrepancy, if any, with regard to the actual extent of tank bed and ayact is clearly explained by the Assistant Executive Engineer, Irrigation Circle in the additional affidavit filed in this Court. In the said affidavit, it is inter alia stated that Krishnapatnam tank is a deltaic major Irrigation tank under the Pennar river canal system of Nellor anicut. The tank, in addition to its catchment source of 4-50 Million Cubic Feet, is supplemented by the waters from Somasila reservoir. The register of components of Works maintained by the Irrigation Department which is an ancient record dated back to the 1950s furnishes various particulars with regard to the above tank. The details of the bund, sluices and the surplus weir as provided in this register are tallying with the particulars of the bund, sluices and surplus weir as are existing today. It is stated the length of the bunds as per the register is 2 miles 4 furlongs which is equivalent to 4.10 KMs. encircles the tank bed area of 296-55 acres. The registered ayacut under this tank is an extent of 835-95 acres and the TJ ayacut is an extent of 200-81 acres. Thus the total ayacut inderthe tank is 1036-76 acres. There is absolutely no reason whatsoever to disbelieve and not to accept the averments made in the counter-affidavit filed by the Assistant Executive Engineer.

20. It is further explained that an extent of 25-35 cents of the tank bed area is situated in Sy.Nos.23 and 62. It is explained that at some point of time the tank was drawing its source only from the catchment area and the tank bed area was limited to those survey numbers. Thereafter the tank was developed by bringing it under the Pennar river canal system and as at present the capacity of the tank is 74-19 Million cubic feet. After the development of the tank the tank bed area at full tank level in 296-55 acres. It is asserted that the lands of the petitioners where they are carrying on aquaculture squarely fall within the said area. The lands are located in catchment area.

21. It is submitted that the activity of the petitioner has an irreparable adverse affect upon the irrigation system under the Krishnapatnam Tank and places the ayacutdars at tremendous risk. It is asserted that to avoid the submergence of the lands in question, the petitioners are indulging in the destructive activities of the very irrigation system.

22. On the basis of the material available on record and the details furnished in the counter-affidavit filed by the responsible officers the conclusion is inescapable that the lands of the petitioners under aquaculture are located within the tank bed of Krishnapatnam. My be they are the owners of the lands in question. But they cannot be permitted to indulge in any destructive activities adversely affecting the very existence of the irrigation system and the tank itself. Obviously, to avoid the submergence of their lands, the petitioners interfered with the irrigation system itself. Rising of bunds of 3 to 4 feet height in the tank bed for the purpose of aquaculture would definitely interfere with the feeder channels and the irrigation system. There is no reason to disbelieve the averments made in the counter affidavits filed by the responsible officers. It is not a case of any malice in fact or in law on the part of the responsible officers. There are no such allegations. On the other hand, the action initialed by the respondents is definitely in public interest. The measures are obviously initiated to secure and protect the legitimate right of the ayacutdars to get unpolluted water in sufficient quantity from the tank for the purposes of irrigation.

23. May be the petitioners as owners of the lands are entitled to cultivate their lands as and when the said lands are not under submergence. It would depend upon the water levels in the tank. But they cannot be permitted to destroy the very irrigation system with a view to see that their lands do not get submerged in the tank. It is entirely a different matter altogether if their lands continuously remain under submergence depriving them of their legitimate right to cultivate the lands. The remedy of the petitioners lies elsewhere. The petitioners cannot be permitted to raise bunds in the tank adversely affecting and damaging the very irrigation system. The respondents cannot be prevented from interfering in the matter. On the other hand they are duty bound to interfere and prevent the petitioners from damaging the tank bed and irrigation systems.

The issue relating to pollution :

24. In the affidavit filed by the District Collector and the other respondents, there is a reference to the opinion of the A.P. Pollution Control Board to the effect that the acquaculture units are discharging large quantities of organic effluents, it is stated that the petitioners commenced the aquaculture without obtaining authorisation from the Central Aqua Authority, Chennai. The same is contrary to the directions of the Supreme Court. In the reply affidavit filed by the petitioners, it is however, stated that no organic effluents are being discharged from the ponds resulting in any damage to the agricultural lands and food production. It is asserted that the petitioners are growing scampi prawns in fresh water without using any insecticides or fertilizers. There is no discharge of water from the tanks. The directions of the Supreme Court are applicable in case of prawn cultivation by using sea water and have no application to prawn culture in fresh water ponds. It is stated that one Jayachandra Reddy applied for permission to the Minister of Sate, Ministry of Agriculture, Department of Animal Husbandry and Dairying for cultivating prawns in fresh water ponds. In response to the said

application the Member Secretary addressed letter dated 21-1-2000 informing him that the directions of the Supreme Court are applicable only in the case of Shrimp culture raised in brackish or saline waters Fresh water prawn culture does not come under the purview of the authority and that no approval as such is required.

25. There is any amount of dispute between the petitioners and the respondents on the question as to whether any effluents are being discharged from the ponds. The respondents assert that from the ponds maintained by the petitioners, organic effluents are being discharged. Whereas the petitioners contend that they do not use any insecticide or fertilizer. But there is no reason to disbelieve the averments made in the counter-affidavit. It is not possible to reply upon the self-serving statements made in the affidavit filed in support of the writ petition filed by the petitioners. The fact remains that the petitioners are doing aquaculture without any prior permission from the Aqua Authorities, Chennai. Whether the aqua culture carried on by the petitioners requires such prior permission is also a question of fact. The respondents assert that the aquaculture carried on by the petitioners requires such permission. The petitioners have not applied for grant of any such permission. They cannot be permitted to rely upon some clarification given by some official of Agriculture Department at the instance of a third party.

26. Be that as it may, the District Collector through his letter dated 11-8-2000 required the Executive Engineer, Pollution Control Board, Nellore to submit a detailed report as to whether the water discharged from ponds cause and result in pollution of water in the tank. The letter is self-explanatory. The Regional Officer, A.P. Pollution Control Board, Nellore accordingly submitted a detailed note on environmental problems due to formation of aquaculture ponds in Krishnapatnam tank as observed during the visit of the area on 9-8-2000 along with the District Collector. In the said note, it is clearly stated that all the aquaculture ponds located in Krishnapatnam tank are discharging their untreated effluents into irrigation supply channels. The following environmental problems are noticed by the Board:

1. Most of the aqua ponds located in Krishnapatnam tank are practicing fresh water culture i.e., Scampi.
2. All aquaculture ponds are discharging their untreated effluents into irrigation supply channels.
3. Most of the aqua ponds have created obstructions on upstream of their discharge point to facilitate discharge of effluents for water exchange. It seems that aqua ponds are putting artificial obstructions to supply channels, unauthorised regulation of sluice gates and tampering of surplus weir to facilitate the discharge of effluents.
4. Water exchange will progressively increase with the age of culture. It is almost negligible during early stage of culture and maximum during harvesting stage.

What exchange i.e., replacing of part of pond water with fresh water is essential to maintain DO Level (Dissolved oxygen level) in the pond. The replaced water is findings its way into irrigation channel, which is a major source of pollution.

5. Rate of water exchange and load of pollution increases with the increase in the density of seed.

6. Normally discharge effluents contain pollutants in excess of standards stipulated by the Board at harvesting stage.

7. Unconsumed organic feed, dead seed, excretes, chemicals, antibiotics used in the culture are sources of pollution.

8. Discharge of polluted effluents into irrigation channels particularly at later stage of culture may have adverse impacts on productivity of the agricultural crops.

9. Aqua farms are disposing bottom sediments on the pond bunds, which are finding its way into irrigation supply channels thereby further polluting the irrigation water.

10. No acquaculture farm has taken any environment protection measures like construction of ETP, providing; of periphery drains etc., to control pollution.

11. No aquaculture farm has obtained authorisation from aquaculture authority.

12. Pollution Control Board has already collected waste water samples in the area and submitted for analysis and will collect additional samples if necessary.

13. As per direction No.6 of Hon"ble Supreme Court Orders dated 17-12-1996 in WP No.56l of 1994 agricultural lands, salt pan lands, mangroves, wet lands, forest lands, land for village common purposes shall not be used/ converted for construction of shrimp culture ponds, Krishnapatnam tank comes under category of village common purpose land as aquaculture ponds.

14. Aquaculture activity is water intensive in nature and needs huge quantity of water for culture. Almost all ponds located in Krishnapatnam tank are depending on ground water for culture. Drawing of huge quantity of water in the coastal area may lead to salinisation of ground water due to intrusion.

15. Formulation of clear-cut location guidelines and obtaining of approval from aquaculture authority u/s 3(2)(v) of Environment (Protection) Act to make them mandatory is the only ideal solution to avoid the re-occurrence of similar problems in future.

27. The matter obviously is under serious consideration of the Pollution Control Board. On what basis this Court can arrive at a different conclusion other than the one arrived at by the Pollution Control Board? is there any reason or justification to ignore the note/report submitted by the Board to the District Collector? None. Can the District Collector ignore report and be a mute spectator? The Court in my considered opinion cannot remain in Ivory tower and

refuse to take into consideration the report, which forms as integral part of the record. It is nobody's case that the detailed report of the Board submitted to the District Collector is vitiated for any reason whatsoever. No malice is attributed.

28. The record would disclose that the Environmental Engineer and the Regional Officer, A.P. Pollution Control Board, Nellore accompanied the District Collector during the inspection of the tank by the District Collector. The contention that the petitioners are not aware of any such inspection is not acceptable to the Court. It is clear from the note/report submitted by the Pollution Control Board that the aquaculture from fresh water i.e., Scampi would also result in pollution. Unconsumed organic feed, dead seed, excretes, chemicals, antibiotics used even in such aquaculture could be the source of pollution. Discharge of such polluted effluents into irrigation channels particularly at later stage of culture, according to the Control Board may have adverse impact on food production.

29. Can this Court prevent the authorities from interfering in the matter with a view to stop the ongoing macabre drama enacted by the aquaculturists? The Court is required to take public interest parameters into consideration and thereby refuse to interfere in exercise of its jurisdiction under Article 226 of the Constitution of India even if any case as such is made out for interference by this Court. Not that in the instant case, the petitioners have made out any such case.

30. It is not the case of the petitioners that the aquaculture practiced by them is the traditional one in its nature. The affidavit filed by the petitioners in support of the writ petitions are totally silent as to the nature of aquaculture practice by the petitioners. The petitioners merely stated that "we got the lands under our occupation excavated and have been doing fish/Prawn cultivation." That's all. However, in the reply affidavit it is stated that they are not using "any insecticide or fertilizer." The distinction between the traditional method in aquaculture and new commercialized system has been noticed by the Supreme Court in *S. Jagannath Vs. Union of India and others*, . It is observed by the Supreme Court that "Aquaculture has been practised for many centuries by small farmers and fisherfolk in Asia to improve their living conditions. However, there is a vast difference between the traditional methods and the new commercialised system. The traditional aquaculture, including shrimp, is usually small-scale, using low inputs and relies on natural tidal action for water-exchange. In some countries, such as India, Bangladesh and Thailand, there is a tradition of rice/shrimp rotating, with rice grown part of the year and shrimp and other fish species cultured the rest of the year. Chemicals, antibiotics and processed feeds are not used in the traditional method. In this low yield, natural method, the harvest is small but sustainable over long periods. It has no adverse effect on the environment and ecology. The modern method, on the other hand, is large in scale and intensive or semi-intensive in nature. It is owned and operated by commercial and often foreign-owned companies which mainly export the shrimp. In intensive aquaculture, selected species are bred using a dense stocking rate. To maintain the very crowded shrimp population and attain higher production

efficiency, artificial feed, chemical additives and antibiotics are used." (Emphasis is of mine).

31. In the affidavits filed by the petitioners, it is not stated that they do not use any artificial feed, chemical additives and antibiotics. The report of the Pollution Control Board submitted to the District Collector says that unconsumed organic feed, dead seed, excretes, chemicals, antibiotics used in the culture are sources of pollution. Therefore it is difficult to accept the submission made by the learned Counsel for the petitioners that the aquaculture practised by the petitioners has not resulted in any pollution of water in the tank.

32. In *Jagannath* (supra) the Supreme Court after an elaborate consideration of the matter issued number of directions to prevent the damage caused to the ecology and economics by the aquaculture. The Supreme Court noticed the damage so caused is higher than the earnings from the sale of coastal aquaculture produce. To Court, inter alia, directed that "the agricultural lands, salt pan lands, mangroves, wet lands, forest lands, land for village common purpose and the land meant for public purposes shall not be used/converted for construction of shrimp culture ponds. The tank bed land is meant for public purposes. Any conversion of such land for construction of shrimp culture ponds is prohibition. Such conversion would be contrary to the directions of the Supreme Court.

33. Any interference from this Court in this batch of writ petitions and any direction restraining the respondents from interfering in the matter would amount to compelling the respondents to act contrary to the directions the Supreme Court. Such a course is not permissible in law.

34. The petitioner in WP No.25502 of 2000 prays for issuance of a writ of mandamus declaring the inaction of the District Collector and other authorities in preventing the conversion of Krishnapatnam tank bed into prawn ponds and removal of bunds as illegal. The petitioner prays for a consequential direction directing the respondents to remove all the bunds raised for practising aquaculture and demolish all structures, so that the tank is restored to its original depth and storage capacity. The writ petition is practically in the nature of social action litigation. No doubt the petitioner is a *ayacutdar*. But the writ itself undoubtedly appears to have been filed in public interest. We have already noticed the relevant facts. The gravamen of the complaint relates to the inaction on the part of the respondents in removing the bunds raised by the aquaculturists. It is alleged that the aquaculturists have closed the original channel. The tank bed is converted into fish and shrimp ponds. It is complained that the public irrigation tank is allowed to be converted into fish and prawn ponds. The attempt on the part of the aquaculturists, according to the petitioner is nothing but occupation of public irrigation tanks for practising aquaculture. The said action has result in deprivation of the legitimate rights of the *ayacutdars* to utilise water from public irrigation tank. The conversion, according to the petitioner, has resulted in depletion of water level. It is stated that unless the

bunds are removed and demolished, the whole tank itself one day would disappear.

35. The existence of the tank and ayacut thereunder is not in dispute. May be the aquaculturists are the owners of some extents of the lands situated in the tank bed. May be they were doing agriculture whenever the lands were available for such cultivation. May be the aquaculturist has right to use the lands for agricultural purpose whenever such lands remain free from submergence. But the question that would arise for consideration is as to whether the aquaculturists can be allowed to indulge in any act, which may prove disastrous and detrimental to the legitimate interest of farmers whose lands are included in the ayacut of Krishnapatnam tank. The agriculturists are asserting their right to receive unpolluted and sufficient quantity of water from Krishnapatnam tank for agricultural purposes. It is a case of aquaculture versus agriculture. In Jagannath's (supra); the Supreme Court approved the positive findings of the NEERI that the damage caused to ecology and economics by the aquaculture farming is higher than the earnings from the sale of aquaculture produce. The Supreme Court also noticed the deterioration of ground water quality and the contamination of the soil itself in the villages over one k.m. away from the pond site. Yet unmindful of consequence the mechanised and intensive aquaculture practice continues in some parts of the State. In the instant case, the tank bed land of a public irrigation source is sought to be converted into fish/shrimp ponds. The attempt of such conversion is resisted by the farmers and rightly so.

36. May be the introduction of a market-friendly economy set the country on the fast track of industrialization and development. The practice of mechanised aquaculture is one such newly set up venture. Such newly set up ventures apart from conferring the benefit upon those chosen few in real terms accentuated the misery of the people because of rising costs of living and higher unemployment. Such newly set up ventures also tolled the death knell of the country's environment. It is well known that vast stretches of India's coastal areas have come under siege while the bio-rich tropical forests and wetlands across the country are on the verge of decimation.

37. The petitioner apprehends that the practice of aquaculture would lead to degradation of wet lands under the ayacut. The petitioner expressed his anguish that myopic social and economic perception is marginalising the very people who draw sustenance from these valuable and complex natural resource systems. The wetlands are not only vital for their biodiversity; they ensure the survival of millions of people. There is no gain saying that an integrated approach that includes the local people and their traditional methods of conservation may arrest degradation of wetlands. Need of the hour is to recognise Marshes, swamps, lakes, ponds and fertile mudflats are falling prey to the unscrupulous designs of realtors and fish farmers, inappropriate, profit-all aquaculture technology.

38. May be the victims of development have began to resist against inherent

injustice of development strategy.

39. The stiff resistance from the affected farmers of Krishnapatnam may serve to underline the enormity and complexity of charting a course of development for the people, of the people and by the people.

40. The Courts role if any in this regard may be a limited one.

41. It is over to the farmers of Krishnapatnam

Back to the facts on hand:

42. In the counter-affidavit filed by the Executive Engineer, it is stated mat necessary steps as demanded by the petitioners could not be initiated on account of the interlocutory order passed by this Court restraining them from interfering in the fish/ shrimp ponds of the aquaculturists. A sworn undertaking given in the counter-affidavit that further steps to protect the tank and its tank bed would be initiated by the respondents. The counter-affidavit to a very targe extent supports the case of the petitioners. It is conceded that the aquaculturists have constructed bunds and converted a portion of the tank bed land into fish/shrimp ponds resulting in damage to the very irrigation system. It is submitted that appropriate further action as required is taken in accordance with law.

43. In the circumstances, no further directions as such are required to be issued in this writ petition.

44. In the result WP Nos. 19785, 20339 20704, 20820 and 20991 of 2000 are dismissed with costs.

45. WP No.25502 of 2000 is accordingly disposed of. No order as to costs.