
(2002) 03 AP CK 0119

In the Andhra Pradesh High Court

Case No : Writ Petition No. 21860 of 2000

S. Krishna Murthy

APPELLANT

Vs

Mandal Revenue Officer and Another

RESPONDENT

Date of Decision : 15-03-2002

Acts Referred:

Citation : (2002) 03 AP CK 0119

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : M.S.R. Subrahmanyam, for the Appellant; GP, for the Respondent

Final Decision : Allowed

Judgement

V.V.S. Rao, J.—The petitioner is the owner of agricultural land comprising in S. Nos. 56/1 and 57/2 of Ramasastrulu vari kandriga village, Venkatagiri mandal, Nellore district. Aggrieved by a notice dated 31.10.2000 issued by the Mandal Revenue Officer the petitioner is before this Court seeking a declaration that the notice issued by the Mandal Revenue Officer-1st respondent herein is wholly without jurisdiction and illegal. This Court, while admitting the writ petition, suspended the notice on 14.11.2000. When the matter is listed at the instance of the respondents who filed application to vacate the interim order being W.V.M.P. No. 199 of 2002 the main matter itself is heard and being disposed of.

2. The impugned notice which is self-explanatory reads thus:

It was revealed in the enquiry that the villagers and ryots of Venkatagiri and Sunkaravaripalli, after crossing the tank bund, reaching the canal which cuts across the southern side of your lands through ganema (sluice) from times immemorial. Therefore, you are hereby informed that you should not cause obstruction to the villagers at the beginning and at the end of your land is at the opening of the tank of Ramasastrulu vari kandriga and at the end of the canal in your land. If you cause obstruction, suitable action will be taken against you.

3. It is not denied by the learned Government Pleader that the Mandal Revenue Officer has no power or jurisdiction under any statute or Board Standing Orders to direct the petitioner not to cause obstruction to the villagers at the beginning and end of the petitioner's land. If any person including the villagers and ryots of Venkatagiri village claim any right of path way over the petitioner's land by reason of custom or prescription the same, as rightly contended by the learned counsel for the petitioner, must be declared by the civil court in properly instituted suit. The Mandal Revenue Officer cannot give such direction to the petitioner especially when it is admitted that the petitioner is the absolute owner of the property. Be it noted the right of ownership in the property includes the right to enjoy (i) a determinate portion of the earth's surface; (ii) the ground beneath the surface down to the center of the world. All the pieces of land made to come in one terminable point at the earth's center; and (iii) the column of space above the surface ad infinitum. Such petitioner's right cannot be interfered with by the Mandal Revenue Officer.

4. In the result, the writ petition is allowed. The impugned notice dated 31.10.2000 is set aside. The Mandal Revenue Officer shall pay the costs of the writ petition quantified at Rs.1,000/-.