

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.17664 of 2012

Date: 18-09-2015

Between:

Inturu Pullaiah and another

.... Petitioners

AND

The District Collector, Khammam District

and 4 others

.... Respondents

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.17664 of 2012

ORDER:

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Heard the counsel for the petitioners and the learned Government Pleader for Revenue. With the consent of both the parties, the main writ petition is heard at the admission stage itself.

2. The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents 1 to 4 in not taking any action on petitioners' application seeking to restrain the 5th respondent from laying road by encroaching on to the land of the petitioner and also to declare the action of the respondents in closing petitioner's bore well without giving any notice to them as illegal and arbitrary and consequently, to direct the 3rd

respondent to open the petitioners' bore as the existing bore-well in the land of the petitioners is used by the people of Dharma Thanda.

3. Insofar as the first part of the prayer relating to laying of road is concerned, it has been placed on record by the Government Pleader that the road has been already laid by the 5th respondent. Therefore, the request of the petitioner for restraining the 5th respondent from laying the road cannot be accepted.

4. Insofar as closure of bore of the petitioner is concerned, no interim order came to be passed while issuing notice before admission in the year 2012. The counsel for the petitioner submits that no notice has been given to the petitioner while closing the bore-well. The record discloses that the bore-well, which was closed, was never put to use. In fact, the bore was closed within 24 hours of laying.

5. Learned counsel for the petitioner submits that since the statute provides for an appeal, he seeks to avail such remedy.

6. Learned Government Pleader for Revenue would submit that the petitioner had violated the provisions of Section 10 of the A.P. Water Land and Trees Act, 2002 (for short "the Act") by not taking any permission prior to sinking of a bore well near drinking water source. According to him as per Section 12 of the Act, a reasonable opportunity of being heard should be given to the owner before passing an order of closure.

7. It may be relevant to refer Section 12 of the Act, which reads as follows:

"Protection of public drinking water sources:- Notwithstanding anything contained in any law for the time being in force, the Authority may, on the advice of the Technical Officer, that any existing well is found to be adversely affecting any public drinking water source, after giving the owner a reasonable opportunity of being heard by an order, prohibit the extraction of water for commercial, industrial, irrigational or any other purposes from such well for a period of not more than six months which after review may be extended for a further period of not more than six months at a time.

Provided that irrigation well with standing crop shall be taken as last priority for such purpose..."

7. From a reading of above section, it is made clear that if any existing well is

found to be adversely affecting any public drinking water source, after giving the owner a reasonable opportunity of being heard, prohibit the extraction of water for commercial, industrial, irrigational or for any other purpose for a period of not more than six months which after review may be extended for a further period of not more than six months at a time.

8. As stated earlier, it is the specific case of the petitioner that no notice was given to him before taking the action of closure of the well, as contemplated under section 12 of the Act. Though the respondents filed counter, there is no whisper about giving notice to the petitioner. Hence, it is a clear case where principles of natural justice are violated.

9. In view of the above, the action of the 3rd respondent in closing the well without giving any notice is illegal and arbitrary and is liable to be set aside and accordingly, the same is set aside. The authorities concerned are directed to pass appropriate orders in accordance with law, after giving a reasonable opportunity of hearing to the petitioner and also to all the affected parties, within a period of eight (8) weeks from the date of receipt of notice. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

Date: 18-09-2015

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