

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT PETITION No. 18941 of 2011

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ORDER:

The petitioner filed this writ petition apprehending adverse action against him for he dug a bore well without obtaining the permission from the competent authority.

2. Brief averments in the writ affidavit are that the petitioner is the owner of the land over an extent of Ac.9-52 cents in Survey No.206 of Mallam village, Jupad Bungalow mandal, Kurnool district. He is raising black gram in his field. In the month of 2011, he dug a bore well in his land. The 4th respondent, who is the owner of the adjacent land, approached the authorities and made a complaint against the petitioner. Under the influence of the 4th respondent, the 3rd respondent-Tahsildar came to the petitioner's field and tried to seize the bore well, to which the petitioner resisted. No notice was issued to the petitioner and no procedure was sought to be followed.

3. Learned counsel for the petitioner submits that no notice was issued to the petitioner under Section 10 of the A.P. Water, Land and Trees Act, 2002 (for short, 'the Act'); as such the action of the 3rd respondent is totally illegal and arbitrary.

4. A counter affidavit has been filed by the Tahsildar in which it has been categorically stated that the petitioner has dug his bore well at a distance of 60 metres from the 4th respondent's bore well, which is likely to cause depletion of water in the bore well of the 4th respondent. It is further stated that the petitioner has not obtained prior permission. Learned Assistant Government Pleader further submits that as per G.O.Ms.No.227, Panchayat Raj & Rural

Development (RD.III) Department, dated 08.04.2013 there is a stipulation with regard to digging of bore wells and maintaining certain minimum distance from one bore well to the other bore well and the petitioner's bore well, which is at a distance of only 60 metres from the 4th respondent's bore well, is in close proximity and the same is in contravention of the regulations stipulated. In that view of the matter, the learned Assistant Government Pleader justifies the proposed action of the 3rd respondent.

5. It may be noted that, as on date, no action as such has been taken against the petitioner. It is also not his case that any notice has been issued to him and in other words, it is only on apprehension that the petitioner has approached this Court.

6. In that view of the matter, the Authority as defined under Section 2(1) of the Act, in the event of deciding to take action against the petitioner for digging bore well in contravention of the regulations, shall be at liberty to take appropriate action by following due process prescribed. However, liberty given to the Authority defined under the Act, to take action, shall not be construed as a licence for the petitioner and does not absolve him of his obligation of obtaining permission under the Act and registering his bore well with the authorities as prescribed under the Act. Though the petitioner ought to have obtained permission before digging of the bore well, inasmuch as the bore well has already been dug, the case of the petitioner may be considered as and when an application is made for registering the same.

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

CHALLA KODANDA RAM, J

05th June, 2015

ksm