

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.24354 of 2012

Dated 09.07.2015

Between:

Viswanadhapuram Cheruvu Irrigation
Water Users Association

... Petitioner

and

1.The District Collector cum Chairman of
District Water Management Agency
Ongole, Prakasam District and 4 others.

...Respondents

Counsel for the petitioner: Mr.Nuthalapati Krishna Murthy

**Counsel for the respondents: AGP for Irrigation & CAD
(AP)**

The Court made the following:

Order:

This Writ Petition is filed by the Water Users Association of Viswanadhapuram Village with twin grievances viz., (1) that respondent Nos.1 and 2 have been seeking to construct check dams on the upper reach of Viswanadhapuram tank completely blocking its catchment area and (2) that respondent Nos.4 and 5 have not been taking action for removal of the

encroachments over the tank bed of the said tank.

Respondent No.5 filed a counter-affidavit wherein it is *inter alia* stated that respondent No.2- District Water Management Agency has constructed a percolation tank long time back; that the petitioner has not raised any objection at the time of construction; that on the representation received from the petitioner, the office of respondent Nos.4 and 5 has addressed letter to respondent No.2 bringing to its notice the petitioner's grievance and requesting it to stop construction of further percolation tanks/check dams; and that since then, no construction work is being undertaken by respondent Nos.1 and 2

As regards the encroachments, it is stated that the office of respondent No.5 has addressed letter, dated 30-06-2011, requesting respondent No.3 to get the survey of the tank done and evict the encroachers; that remainders were also given *vide* letters dated 29-11-2011 and 18-09-2012 and that action will be taken for eviction of the encroachers, after consultation with the revenue authorities.

At the hearing, the learned Assistant Government Pleader for Irrigation (AP) submitted that the respondents are in the process of removal of encroachments.

As regards the construction of check

dams/percolation tanks, no counter-affidavit is filed by respondent Nos.1 and 2, who have been, allegedly, constructing them. In the absence of any justification put forth by the said respondents, this Court finds the fear and apprehension of the petitioner that construction of such check dams or percolation tanks on the catchment areas of the existing irrigation tank would block the inflow to the tank is well founded. Unless respondent Nos.1 and 2 address the concerns of the petitioner, they cannot be allowed to proceed with further construction.

As regards the grievance of the petitioner regarding the inaction of respondent Nos.3 to 5 in evicting the encroachers, mere internal departmental correspondence between respondent Nos.5 and 3 would not redress the same. Respondent No.3, who is empowered to evict the encroachers by initiating the proceedings under the Andhra Pradesh Land Encroachment Act, 1905, cannot remain a mute spectator when irrigation tanks are encroached unauthorisedly. Atleast after respondent No.5 has addressed letters, respondent No.3 ought to have sensitized himself and initiated appropriate action.

In the above facts and circumstances of the case, respondent Nos.1 and 2 are restrained from

raising constructions of any nature on the catchment area of Viswanathapuram Irrigation Tank and they are directed to ensure that the catchment area is left open for free flow of water into the tank. Respondent No.3 is directed to forthwith initiate proceedings for eviction of the encroachers of the tank bed/catchment area of Viswanadhapuram Cheruvu and complete the process of eviction within two months from the date of receipt of this order.

The Writ Petition is, accordingly, allowed to the extent indicated above.

As a sequel, WPMP.No.31091 of 2012, filed by the petitioner for interim relief, is disposed of.

(C.V.Nagarjuna Reddy, J)

Dt: 9th July, 2015
LUR