

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.14304 of 2015

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ORDER:

Heard learned counsel for the petitioners, learned Government Pleader for respondents 1 to 3 and learned counsel for respondents 4 to 9.

2. The petitioners claim to be the owners and possessors of agricultural land admeasuring Acs.33.07 cents in R.S.Nos.65 and 66/1 of Vemavaram Village, Vijayawada Rural Mandal, Krishna District, which is popularly known as 'Sontha Cheruvu' (own tank). The petitioners earlier filed W.P.No.1336 of 2007 and this Court disposed of the same by order dated 30.08.2007, holding as follows:

"In the ordinary parlance, the private tanks irrigate the lands of the concerned owners, and general public do not have any right to draw water for irrigating the lands, as in the case of the public sources of irrigation. The mutual rights and obligations of the petitioners, on the one hand, and the owners of the private tank in Sy.Nos.65 and 66/1, on the other hand, are not immediately before this Court. It becomes necessary to examine the concerned records, as well as the relevant provisions of law. If the petitioners have any genuine grievance, they can certainly approach the District Collector, who, in turn, can call for the relevant records, and pass appropriate orders.

Hence, the writ petition is disposed of, leaving it open to the petitioners to file a representation to the District Collector, Krishna, narrating their grievance. On receipt of the same, the District Collector, shall issue notices to the concerned parties; call for the record, and pass appropriate orders, within a period of three months from the date of receipt of a copy of this order.

3. Thereafter, a representation was filed on behalf of the petitioners and the second respondent conducted an enquiry and passed an order on 10.06.2008. In para 14 of the observations

recorded in the said order, it was clearly stated as follows:

“ On verification of the records maintained in Tahsildar's Office, Vijayawada (Rural), Pattadar Pass Books were issued only for R.S.No.113, 118 and 111A in favour of Sri Lakkamraju Pundarika Varada Varma bearing PPB No.3971 and R.S.No.66/2, 113, 118, 11A PPB and TD was issued in faovur of Lakkamraju Subba Raju bearing PPB No.3972. But the land in R.S.No.65 and 66/1 was not covered in the above lands.”

4. Challenging the said order of the second respondent, the petitioners filed W.P.No.23191 of 2008 and the same was dismissed on 08.04.2009. Against the said order, W.A.No.976 of 2009 was filed before a Division Bench and the Division Bench dismissed the same by order dated 03.08.2009. Thus the order of the second respondent dated 10.06.2008, pursuant to the order of this Court, has become final.

5. Now the present Writ Petition is filed challenging the action of the third respondent in digging the said tank on the ground that when the representation of the petitioners dated 13.01.2010 is pending consideration before the second respondent.

6. This Court, by order dated 07.05.2015, ordered *status-quo* till 10.05.2015, and by order dated 30.06.2015, the said order was directed to be continued until further orders. Now the ayacutdars filed W.V.M.P.No.2411 of 2015 and the Government also filed W.V.M.P.No.1690 of 2015 seeking vacation of *status-quo* order.

7. The representation of the petitioners dated 13.01.2010 might have been pending before the second respondent and the said representation relates to recalling of the order dated 10.06.2008 passed by the second respondent, which has become final by virtue of the orders passed in W.P.No.23191 of 2008 and W.A.No.976 of 2009 as referred above. Though the learned

counsel for the petitioners brought to the notice of this Court that at no point of time, the said tank was maintained by the Panchayat Raj Department nor the Government exercised its rights over the said tank, this Court is not inclined to put the said fact in favour of the petitioner in the absence of the *prima facie* title in favour of the petitioners by virtue of the order of the second respondent dated 10.06.2008.

8. In the circumstances, this Writ Petition is misconceived and it is accordingly dismissed. This will not prevent the petitioners from taking appropriate steps in accordance with law before a competent civil Court. No order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 23.07.2015
TJMR