

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.2032 of 2012

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Dated 03rd September, 2015

Between:

Shaik Mufti Mohammad Iliyas and another

...Petitioners

And

The Government of Andhra Pradesh, rep.by its Secretary, Department of Irrigation,
Secretariat Buildings, Hyderabad and others

...Respondents

Counsel for the petitioners: Sri T.Lakshminarayana

Counsel for respondent Nos.1, 2 & 4: AGP for Irrigation & CAD (AP)

Counsel for respondent Nos.3, 5 & 7: AGP for Revenue (AP)

Counsel for respondent Nos.8 to 21: Sri D.V.Rao

The Court made the following:

ORDER:

This writ petition is filed by two persons claiming to be the owners of land in Survey Nos.1034/2/A, 1035-1 and 1037-1 of Kovur Village, Nellore District for a mandamus to direct the Officials of the Irrigation Department to restore the field channel called 'Barudagunta Chenu Kaluva'.

In the counter affidavit filed by respondent No.4, the claim of the petitioners that the said Kaluva is in existence has been denied. It is averred that as ascertained from the Tahsildar, Kovur and upon the field verification made, there is no plan marked field channel in Survey No.1035/3 of Kovur Village and that as seen from the Field Measurement Book sketch, there is no field channel in the said survey number. The counter affidavit further stated that the channel claimed by the petitioners may be a local drainage course flowing adjacent to their land in Survey No.1035/3.

No reply affidavit is filed controverting the above-mentioned averments in the counter affidavit of respondent No.4.

The question whether a field channel is in existence or not cannot be adjudicated in a writ petition filed under Article 226 of the Constitution of India. As respondent No.4 has denied the existence of such a channel, the appropriate remedy for the petitioners is to avail the common law remedy of a civil suit.

Subject to the liberty given to the petitioners as above, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WP.MP.Nos.2522 & 2523 of 2012 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

03rd September, 2015

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