

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.2068 OF 2011

ORDER:

This Writ Petition is filed by the petitioner challenging the notice No.B/442/2010, dated 17.07.2010 issued by the 3rd respondent-Tahasildar, Chigurumamidi Mandal directing him to stop digging of well.

The grievance of the petitioner is that though the notice dated 17.07.2010 reads as if the same is only a show cause notice, as a matter of fact the respondent authorities prevented the petitioner from further digging of the bore well. The contention of the petitioner is in terms of Sec.15 of the A.P. State Water, Land and Trees Act, 2002 (in short "the Act") prior notice is required to be issued and it is only thereafter the order that can be passed under Sec. 15(2) of the Act to stop or desist from digging a bore well.

Learned counsel for the petitioner submits that as a matter of fact the petitioner made an application for digging an open well in Sy.No.489 as is evident from in the geologist certificate and further submits that on the application made by the petitioner by oversight the 4th respondent authorities had mentioned survey number as Sy.No.388/A at 8/6 as the place at which permission for digging open well was granted. It is further submitted that the petitioner does not own any land in Sy.No.388/A, he owns land in Sy.No.488-A over an extent of Ac.3-00 gts., in Sy.No.489 over an extent of Ac.1-12 gts., and in Sy.No.490 over an extent of Ac.0-25 gts., in Bommanapalli village of Chigurumamidi Mandal, Karimnagar District. It is only a mistake which was not noticed by the petitioner and they assumed that the permission which was earlier granted mentioning the correct survey number be that as it may be.

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Panchayat Raj (Telangana) Respondents 1, 2 and 4 and the learned Assistant Government Pleader for Revenue (Telangana) for

respondents 3 and 5, and none appeared for the respondent No.6.

A perusal of the documents reveal that the certificate furnished by the Tahsildar of Chigurumamidi Mandal, reveals that the petitioner owned a land in Sy.Nos.488/A, 489 and 490 of Bommanapally village, Chigurumamidi Mandala, and further the geologist certificate stating that the entire Sy.No.489 of the petitioner, on account of the nature of soil and mild moderately weathered zone with the forbear / fissured terrain, the geologist suggested digging of an open well and the site position has also been marked. However, the permission granted on 25.06.2010 by the Designated Officer, mentioning the Sy.No.388/A, is obviously a mistake, which mistake should have been corrected on verification of the application. In stead of the same, the impugned notice has been issued to the petitioner and a valuable time of five years have been lapsed.

Considering these aspects, interest of justice would be served if a direction is given to the respondents particularly the 3rd respondent-Designated Officer to verify the record and correct the anomaly and permit the petitioner to proceed with digging of the well. However, if it is technically not possible to grant permission to dig open well, petitioner's application in relation to a digging of a bore well be considered.

Accordingly, Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J

Dated:12.03.2015.

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